THE
DESIRABLE CITIZEN

ELEMENTARY LESSONS IN LAW, GOVERNMENT AND CITIZENSHIP

By

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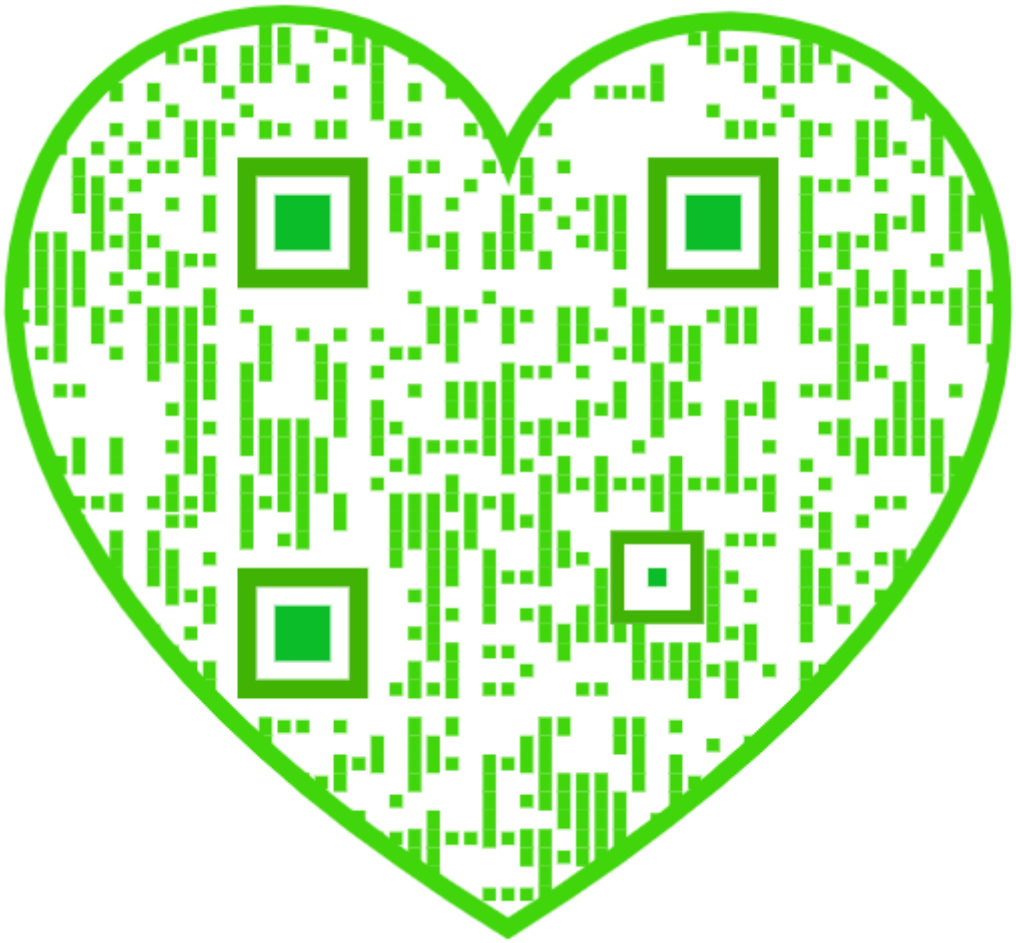

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SCENE AT ELLIS ISLAND

(For explanation of cuts see Table of Illustrations, page 9.)

THE DESIRABLE CITIZEN

THE Desirable Citizen studies the workings of his government in the community, in the State, and in the nation at large, and does his part in the election of proper men to office. He belongs to that party whose principles most nearly express his own views, but he does not hesitate to give his support to a better man on another ticket when no important issue is endangered by so doing. He loves his country with the knowledge that for him it is the best land on earth; but above all, and beyond all, he has an abiding faith in its integrity and in its future. As a neighbor he is charitable in his dealings and judgments, with a sympathy that gives aid to the needy and unfortunate without ostentatation or hope of reward. In whatever land he calls home he represents the best product of its institutions and thought — a gentleman *upright* and *unafraid*.

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INTRODUCTORY

Whenever a game of any kind is played, either by the children of civilized or savage people, certain rules that the players themselves or others have made govern the players and are called the "Laws of the Game." In playing ball, marbles, jacks, plugging tops, jumping, or running foot races, there are governing laws to which each one must submit. In playing games of cards, in spelling and reading contests, or in playing chess and checkers, which are silent games,—in fact, in all games, there are rules which all who participate must obey, or forfeit the right to play. Now, what is true of the actions of children in their sports and games, has a much wider significance when it is applied to a large body of people collectively, whether it be a clan, tribe, state or nation. Because man is social in his nature, governments are established and maintained on the theory that people reach a higher degree of excellence and efficiency under a good form of government than under a bad form of government. It should, however, be said that a mild and just form of government is necessary to enforce rights, duties, responsibilities and obligations, and to protect the weak and innocent from the exactions of the selfish and powerful.

The word govern is derived from the Latin verb *gubernare*, to steer a ship, and this meaning has been transferred and enlarged so as to include the direction, management and control of states and nations. From the Latin word *gubernare*, we have gubernatorial, govern, governor, and government, which are words in common use. The popular meaning of the word government is that of the controll-

ing power in a nation, yet the term may be, and very often is, restricted to a much narrower use, as when one speaks of the government of a family, a school, a town, county, city or state.

The word civil is derived from the Latin word *civis*, a citizen. A citizen is a person who owes to the government allegiance, service and money by way of taxes, and to whom the government grants and guarantees liberty of person and of conscience, the right to acquire, to hold, and to transfer property, and also the security of person, property and reputation. A citizen is one who enjoys, or may enjoy, all civil rights.

Therefore, "Civil Government" may be defined as the regularly constituted legal authority operative within a state or nation. From this it will be seen that Civil Government treats of persons living in civilized society, of property, duties, obligations and of rights. To determine what people may do, or refrain from doing, places them at once under law. Laws are made to govern the actions of men, women, and children—of children when they have reached the age of accountability. In so far as the actions of persons are concerned, as viewed legally, the law discriminates between what is the "declaratory part," which defines the rights to be observed and the wrongs to be avoided, and the "directory part," which enjoins the observance of the right and the abstaining from the wrong; the "remedial part," which is a method of recovering a right or redressing a wrong, and the "vindicatory part," which prescribes a remedy for a transgression. Laws are enacted for the purpose of controlling the actions of man. It would be beyond the scope of the present work to enumerate the different kinds of laws necessary in our complex civilization, not to mention the laws of nature, or of the mind in its various kinds of activity.

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Man, wherever he may be, is a subject of law. The forces of nature always act upon him and he reacts against them. His surroundings constitute his environment, and whatever traits of character he has inherited from his ancestors, constitute his original tendencies or his hereditary influences. A child, therefore, is born into a world governed by physical laws, by statutory enactments, and by the practices or customs of the people where his parents reside. All these influences are governmental. The different kinds of government under which we live are the Home, the School, County, State, and Nation. To these there are other incidental governmental forms under which one may, or may not, live, to wit, city, town, or village government; church government; fraternal governments of various kinds. But in our country, broadly speaking, each citizen constantly lives under at least five recognized forms of government. From the preceding statements it is possible for a person to live under several different kinds of government at the same time, and yet they may be so regulated that no one seriously interferes with the others. Some of these, it is true, may be only temporary, as that of the school, or of the different fraternal and social organizations. A good citizen is one who obeys the laws under which he lives and performs all the duties, both public and private, resting upon him.

SUGGESTIVE QUESTIONS

Why are governments necessary? Explain the difference between a right, a duty, and an obligation. From what Latin word is *governor* derived? What is meant by the right to acquire, to hold, and to transfer property? What is civil government? Why are laws made? What is the meaning of man's being a subject of law? Explain the difference between environment and heredity. What is the difference between a physical law, a statutory law, and a custom? What does the word "suggestive" mean? What is the root word in it? What the prefix? What the suffix?

CHAPTER I

KINDS OF GOVERNMENTS

Governments have been classified by writers from the earliest times, according to where the source of power resides. Some nations not far advanced in civilization have an absolute monarch at the head of affairs. Such a government is a despotism; others again, are governed by a king, queen, emperor, or czar, such governments being called a monarchy, while others, like the United States, France, Switzerland and Mexico, have a chief executive known as the president, and are classed as Republics. But it must not be inferred that because people live in a Republic that, by virtue of this fact, they always are a freer people than those living under a constitutional monarchy.

In Republics the supreme source of power is vested in the people collectively, and every citizen who votes has a voice in selecting candidates for office, and in this act he exercises the attributes of a sovereign, which is one of the highest privileges of citizenship.

THE FAMILY

Obviously the first and simplest form of government is that of the Family. The word is from the Latin, *familia*, which includes the household, not excepting the servants. In its modern comprehensive use it is applied to all the persons living together in one house and under the same head or management; but in its more limited sense, it signifies the father, the mother and the children. No specific number of persons is required to constitute a family, or that they should

eat at the house, or that they be employed in or about the house. The husband is legally regarded as the head of the family, and is the person who controls, supervises, or manages the affairs of the house.

Parents are in duty bound to govern their children. All rational beings are subject to governmental control, and it is in the home that the child should first learn those habits of obedience which are subsequently to be exercised with reference to the community and to the nation. The parents may give their child all the advantages that wealth, learning, travel, and good society can bestow, but if he has not been taught obedience and self-control, they will probably live to see their fondest hopes blasted and their child become a reproach and a shame to their name. But parental government should be reasonable and intelligently administered. It should never be one of blind impulse or furious passion, but it should be even, mild, and firm. It should always take into consideration the welfare of the child in general rather than his whims and caprice. When prohibition is necessary it should prohibit, and grant indulgence only when it is safe. To govern well, the peculiarities of the child should be considered and the hidden springs of his nature touched so as to secure responsive action that terminates in prompt and cheerful obedience.

Home government ought to be steady and uniform. The parent who can not govern himself will fail in parental control. Severity one day and undue laxity the next, punishing and caressing alternately, fail to secure either respect or obedience. Filial obedience should be secured and maintained.

The family is an institution peculiar, distinct, and complete within itself, having its own laws, rules, regulations, rights, duties and responsibilities. It is peculiarly a fitting station for other objects and other institutions to which

it is very closely connected. One of the chief ends for which it exists in a civilized community is the training and preparation for the duties that the child will eventually perform in respect to himself, to society, to the state and to the Creator. As has been previously stated, duties are reciprocal. The parent is responsible for the maintenance and education of his child, and later the child owes duties to its parents. It is the plain duty of the parent to provide for the physical wants of his offspring and to educate them, because the child is dependent, and needs the care and protection of its parents. Deprived of this care and protection it must inevitably perish, unless the law interferes and appoints a guardian, or some kind person comes in and adopts it. No outsider naturally can discharge this trust with the same parental feelings as the father and mother ought to have for their own children, and this trust ought not to pass over to another except in case of death, or disability to discharge this sacred duty. The manner in which this duty should be performed depends upon the circumstances and condition in life of the parents during the minority of the child. In the eye of the law the parent has done his duty when he has made the best possible provision for his child that his ability and circumstances will permit. It is his duty to instill into the mind of his offspring such simple habits of frugality, industry, honesty, self-reliance, truthfulness, and purity of mind and body as will cause the child to become an honor to his parents and a useful, independent, self-supporting citizen.

Some writers have compared the family circle to a miniature state, and from this comparison it has been argued that the state expects the family to do its duty. Governments have generally entrusted to parents the administration of their home affairs and are very reluctant to inter-

fere with home rule, except in cases of gross abuse or neglect of parents to provide for the child's nurture and training. Parents are supposed to have some knowledge of the laws of nature and of the dangers to which a child may be exposed, and of which the child may be profoundly ignorant, owing to its limited experience. The parents should teach the child lessons that may be learned through experience, but are not transmitted from parent to child. The parents must watch over the health of the child, and guard it from disease and moral contamination. His sleep, games, diet, clothing, and hours of study must all be supervised, in order that his body and mind may develop symmetrically and harmoniously. Parental government is for the benefit of the child,—not for the gain of the parent. Whatever the parent does for the child ought to be done wisely and well, and it should be done at the right time and in the right way. Parents ought to teach their children to know the right and to cheerfully do the right. The authority exercised by the parent should vary, owing to the needs and the age of the child. What would be suitable for a child of six or ten, might be entirely wrong for one of fifteen or eighteen. As independent thought and personal responsibility are involved, the parental authority should be relaxed to fit the conditions as the child grows in knowledge and wisdom. The object is to fit the child for self-government under law, and this aim should be set before the child as it approaches maturity. It is in the home, too, that the parents take cognizance of the caprice of the child and endeavor to fashion its actions in accordance with the law of the state. Where parental government is not enforced, or is lax, or uneven, and the lessons of obedience and self-control are not learned, submission to legally constituted authority is spurned, and the child goes forth

into society as an unregulated, erratic citizen, a menace to the state and an enemy to himself.

FIVE IMPORTANT INSTITUTIONS

There are five distinct institutions that lie at the foundation of the civilization we have reached, namely, the home, the church, the school, the society in which one lives, and the state or nation.

The school is an institution, organized and maintained at public expense, for the protection of the citizens of the state and to perpetuate the state and its institutions. The public school is a gradual development from the original or parish school. The modern state undertook the education of its youth because the church and private benefactions could not educate all the children and fit them for intelligent citizenship. Schools are organized on a broader base than is the home and for more specific purposes. School government differs in many respects from home government, and yet they have many features in common, as a little reflection will show.

In the states and territories of our country each state and territory enacts its own school laws through its legislature. Of course where there is not a law-making power, the government (as with the Indian tribes and in Alaska), administers the educational affairs. But in general there is no national system of education in the United States. By statute or special act of the legislature, each state administers its local school affairs through local boards or school committees, whose duties are defined by law. These local boards, by the authority invested in them, make all needful rules and regulations governing their school district. They are usually elected by the people in the district to carry forward the school interests of their community. In a sense, they constitute a legislative body, prescribing what

is to be done and prohibiting what ought not to be done. The duties of boards of education in cities, towns and villages, can be learned by an examination of the general school laws, special acts and charters, under which each board exercises its functions.

The Teacher. The teacher occupies a unique position as the preserver of the conduct of each pupil on his way to or from the school, and while in the school house or on or about the school premises. The courts have usually held that the teacher's authority extends over the pupil from the time he leaves home till he returns home. On his way to or from school he is as much under the teacher's authority as if he were in the school house during school hours. The teacher is regarded as being in the place of the parent while the pupil is absent from the parental roof. In the state of Massachusetts one of the courts held that the bad conduct of two pupils on Saturday, when the school was not in session, was detrimental to the state and that the teacher was justified in whipping the boys on the following Monday.

School Government. School government may be defined in its practical application, as the art of so directing the affairs of a school as to maintain a systematic method of instruction, and to induce orderly conduct and efficiency in studies, and to lead the pupils into habits of self-control and self-directed work. It is the wise adjustment of the learner to the educational forces and instrumentalities which act upon him and to which he reacts in response. The chief function of the teacher is to stimulate the pupils to self-exertion, self-assertion, under law, and into habits of self-knowledge and self-confidence. All true government comes from within. It is not the overpowering pressure from an external force organized as the state that compels obedience, but the feeling within that prompts to right

action. School government, as a formative power, operates under the most favorable conditions when the home and school authorities work together. If the home influences are exerted against the teacher, and the Board of Education, the school is helpless to aid the child. The home is the child's social center during the infantile period, but the school widens the child's experience when he begins to form associations beyond the family circle. In the school he is ushered into another world in which he is only one actor among others. Others have claims equal to his own, and he soon learns, or ought to learn, to depend on himself if he takes equal rank with others in their studies and games. The school should level artificial distinctions by teaching each one the nobility of honest effort. It is in the school that the child as a participator comes in contact with the state as an institution which he yet but dimly realizes, even when his attention is called to the fact. He hears something about the teacher's authority, and less of the power of the board.

The Child's View Enlarges. To clear the learner's ideas, the teacher and parents, either or both, may drop a sentence every now and then, telling how schools are organized in a state, sites purchased, houses built and furnished, books and apparatus supplied, teachers employed, fuel and water supplied, taxes levied and collected each year, and state, county and township funds apportioned, in order to conduct a school. The matter is brought directly home to the pupil when he learns that his parents have to pay their part of the school tax for his education, and that he has as much right as any other child in the state to attend the public school. Here, too, he may learn the lesson that a government founded on majority action must depend upon an intelligent and virtuous citizenship, and that he, in time,

will become one of the independent political units. Thus, as he grows in knowledge, the child's horizon enlarges from that of the home, to the school, the township, county, state and nation.

The child in attendance at school is expected to obey all needful rules and regulations, to prepare his lessons promptly and neatly as his teacher may direct, and to be pure and chaste in speech and conduct; to be polite and kind to his teacher, to the pupils attending school, and to persons that he meets in going to or in returning from school. It is incumbent on the teacher to teach morality in school as much as it is to teach language, geography or arithmetic, and it is probably best taught by example and incidentally. Conduct has reference to behavior in general as opposed to misbehavior. Of recent years business men generally ask, when a boy or a young man applies for a position, for testimonials as to his class-standing and behavior in school. Particularly is this true in towns and cities. Good conduct in school may be very far-reaching in one's life work. Government is designed to teach and consolidate in one's character those habits of industry, honesty, truthfulness, neatness, correctness, and faithfulness, that set the upright and reliable man off from the untrustworthy one. The pupil should keep in mind that the government of a school is a part of the school work, a part of the school itself. The school is an institution as much so as the state, though in a modified form, and inasmuch as the pupil must live an institutional life, he is, through the medium of the school, fitting himself to become a participator in that fuller sphere of activity which is opening for him. It is the feeling of responsibility that makes the pupil consider his own actions, and this is the foundation of self-control.

SUGGESTIVE QUESTIONS

What is family government, and what does it include? What is the difference between a child and the hired man or woman? How should they be treated? Give three reasons why parents are bound to govern their children. What are habits? What is the difference between obedience and self-control? How would you define "Blind Impulse"? Give two reasons why home government should be steady and uniform. Does your mind work evenly or in a jerky manner? How should it work? Should a child ever be taken away from its parents? Give three reasons for the separation. By what signs would you say that a boy or girl should govern himself or herself? What do you understand by the expression "he has the big head"? How distinguish between a despotism, a monarchy, a limited monarchy, a republic, anarchy? Where does the supreme power in our country reside? What is the difference between a candidate and an officer? Give the derivation of the words "heredity" and "environment."

How are public schools maintained? If the board of education does not make the rules of the school, who should make them? Give two reasons for your answer. If two boys engage in a fight at school, and a jury of six pupils, after hearing all the evidence, decides both ought to be whipped, say, six good strokes each by the principal, ought the parents of the disobedient boys object to the punishment? Why? When a mother comes to the school and tells the teacher that "Johnie" is a *very peculiar* boy, and it will not do for the teacher or pupils to cross him, what do you think is the matter with Johnie? If you were his teacher or his mother, what would you do to Johnie? If a schoolhouse burns, how is a new one built, and how is it paid for? Has a boy a right to break in a schoolhouse door to get his books that are left in his desk? How large a site should a country district school have? How should the grounds be taken care of? What part would you plant in trees? in flowers? in grain and grasses? How much would you leave for playgrounds for the girls and the boys? What books ought to be in the school library?

CHAPTER II

A STUDY OF THE TOWNSHIP

The pupil in school has learned from hearing his parents and neighbors talk, if not otherwise, that they are interested in school, town, township, county, state and national affairs. He hears men and measures discussed, policies recommended, and some condemned. About him, if he lives in the country, he sees some officials, such as members of the board of education, constables, justices of the peace, often called "Esquires," township trustees, and occasionally some of the higher county officials. During the excitement of political campaigns, he hears very much said about the election of congressmen, candidates for governor, and for president of the United States. But he comes in contact most directly with the man who delivers the mail, and he learns not to meddle with the mail boxes. Should he live in a town or city, the officials that he knows most about are policemen, and these are the ones that he usually watches most closely whenever he is engaged in mischief. He soon recognizes some men as public officials and others that are called citizens, and he associates authority with those that stand for the power and dignity of the state.

In the school he learned the lesson of submission, and that he had to adjust himself to a group of others who were also attending school. This process of adjustment is not completed in school, because life is a continual adjustment to new conditions daily. An orderly world confronts him

on every side, in which people go about their business with regularity. The power of self-regulation that he learned and observed in school is carried over into that larger sphere in which the community lives and works. This continual adjustment fits him for citizenship.

Units—A Sketch. Institutions begin to find a place in his thinking: the school district is a unit of that larger district, the township, which may contain several school districts, and the township is a unit of a larger type, several of which constitute the county, and again the county is a type of another set of units forming the state. In the county may be cities, towns and villages, each governed by laws which may agree in some respects and differ in others. At first it is rather confusing for a beginner to understand how the management of these different units can be carried on and not interfere with one another. He becomes aware that he lives in a world of reality, in which manners and customs are pretty well fixed, and they appear to have been in their present condition for a long time. It is the object of the present work to explain how some of these things have come to be as they are. Just here let us remember that all the governments of the earth have some plan of administration to reach all the people through its officials who keep in operation the business of the nation, state, county, school district, and municipality, if there be one. Civilized states or nations have in operation the best and most effective agencies for preserving order, protecting persons and property, levying and collecting taxes and disbursing the same, consistent with the greatest amount of liberty under law for each individual citizen. In ancient times the state was not organized and its affairs administered as is done at the present. Only a few hundred years ago in Europe there were no states as there are to-day.

The people paid the taxes assessed, and the state troubled itself little beyond that.

SKETCH OF THE TOWNSHIP

Each nation of Europe generally divided its territory into small political divisions corresponding to the Township in the United States. If one takes a good map of one of the states of the United States, he will see that it is divided into counties, except in Louisiana, where these subdivisions are called parishes. The counties are divided into smaller subdivisions called Townships, or *Towns*. It is interesting to learn how we came to have the words "Town" and "Township," since these are undoubtedly the oldest forms of government under which we live. "Town" is from the Anglo-Saxon "tun," or "toon," an inclosure, a garden inclosed by a hedge, or a collection of houses inclosed by a wall. "Township" is derived from "tunscipe," signifying the village and the country surrounding the village or town. In New England the first local civil governments were the towns, antedating the counties, and from which the counties were formed; but in the newer states, when an organic law is first enacted for the government of the whole territory, and a constitution is framed and legally adopted, the counties precede the organization of the townships. The word township in the United States is used in two different ways, in one as a *political unit*, and in the other it has reference to the method of dividing the public lands under the rectangular system of surveying, established by the government in 1796, dividing the territory surveyed into townships six miles square, and these into sections one mile square.

In New England and in New York, towns are the political units of territory into which each state is divided, and correspond politically to the parishes and hundreds in Eng-

land, but are invested with greater local powers of self-government. In Delaware the counties are divided into hundreds. In some of the states these small units are called the Election Precincts: in Georgia, the Militia District: in Louisiana, the Police Jury Ward: in Maryland and Wyoming, the Election District: in Tennessee, the Civil District: in Texas, the Justice's Precinct: and in Arkansas, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, New Jersey, the Carolinas, Ohio, Pennsylvania, Nebraska, and the Dakotas, they are called the Township.

Local Affairs of the Township

Under our form of Government each state manages its local affairs in its own way, without interference from the general government. There is no uniformity in the judicial system of the different states of the United States. Each state, through its legislature, enacts its own laws pertaining to schools, the organization of school districts, the names and the size of the counties, but the people of each county, through their county judges, township trustees, or other officials, divide the counties into municipal townships, and at special or general elections elect such township and county officials as are designated by law to conduct the business of the township or county. These officers are usually justices of the peace, constables, assessors, collectors of taxes, road overseers, township clerks, and such other officers as the statutes prescribe. In theory, government is designed to protect the person and property of everyone, and those small civil divisions are intended to bring justice within easy reach of the humblest citizen, as well as of the most influential. Through the instrumentality of the township justice of the peace and the constable, both being civil officers, criminals can be the

more readily apprehended and tried, at least so far as to establish the fact of their probable guilt or innocence; also civil suits in which the value does not exceed a certain amount, may be tried in Justices' Courts, and these petty courts, which are not usually courts of record, relieve the higher courts of many trivial cases that would otherwise come before them. Usually each township has one or more voting places in it, most frequently at the school house or in some building in the village or town, if there be one in the township.

The duties of the township officers are executive and judicial. School boards, however, can make all needful rules and regulations for the government of the pupils who attend school, and in a sense they legislate. But the general duties otherwise performed are executive and judicial, as has been stated.

The Citizens of the Township

The citizens are the persons living in the township, and it includes all residents. They constitute the township. After the township is legally organized they elect the officers, yet in some of the states, some of the officers are appointed by the county court, particularly road overseers, and in case of a vacancy in other offices, these are filled in like manner till the next general election. All matters of detail are provided for by statute in each state. Each citizen is interested in the selection of good local officers, in feeling that his person and property are secure, and that he is really sure of enjoying the fruits of his own labors, and when he has been away from home and returns that his family and his effects shall be in as good a condition as when he left them. Where a breach of the peace is committed, every citizen feels that the dignity of the community has been outraged, and that he

is interested in having the offender brought to a speedy trial. Lawlessness will bring any community into bad repute, and the self-respecting citizens will use their influence severally and collectively to keep the reputation of their community above reproach.

Each state prescribes the qualification of voters, and the right to vote carries with it the corresponding duty to vote; that is, to participate in the affairs of the state and of the nation. The privilege of voting is conferred as a method of safety to the individual and the nation. Of late years much complaint has arisen among certain classes of citizens that a large number of good citizens abstain from taking any part in the selection of candidates for the various offices, and from voting at the elections, and they believe that some kind of a penalty should be imposed on such citizens for their non-participation in public affairs. To vote is the expression of the will of the voter, whether the act is by ballot or by the voice. A voter is an elector who votes—an elector in the exercise of this privilege. The qualifications for voting are not uniform in all the states, but they are similar and are usually the following: Citizenship by birth or naturalization, residence in the state and voting precinct for a given period, registration, twenty-one years of age, freedom from infamy, etc. Some states have passed laws allowing women to vote, and there appears to be a growing sentiment in this direction in many states.

Officers of the Township and Their Duties

It is necessary to give a fuller account of the Township Officers and their duties than was sketched in the preceding chapter. In the rural communities these officials come more closely in contact with the people than any other class of county officials. The municipal township

is not necessarily of the same area as the congressional township, a subdivision six miles square established by the government surveyors. The townships of a county are given names. Township organization offers the simplest method of levying, collecting, and disbursing local taxes.

These officials are justices of the peace, constables, trustees, treasurer, assessor, clerk, road-overseer, and overseer of the poor. Some of the states unite two of these offices into one, as the township clerk or the trustee may discharge the duty also of looking after the poor. These officers enumerated are necessary under the regularly organized township organization, but some of the states not having such an organization, have only justices of the peace and constables as township officers. All these officers are elected by the voters of the township at a general election held for that purpose. Usually they are elected for one year, but some of the officers, such as justices of the peace and constables, may be elected for two years, or in certain cases, for four years. In a township most frequently there are two justices of the peace, and sometimes more, owing to the size and population of the township.

Justices of the Peace. The office of Justice of the Peace is an inheritance from our English ancestors. It is an honorable and responsible office. Some of our very best men have acted in that capacity. Thomas Jefferson, after having served as president of the United States, was elected justice of the peace by his fellow citizens of Monticello, Virginia. This office he filled with dignity and impartiality. The citizens in selecting candidates for justices of the peace choose men of integrity and intelligence. He is the judicial officer of the township, and his court is not regarded as a court of record, yet he keeps

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a record of the official acts that come before him. The authority and the jurisdiction of justices of the peace are prescribed by the statutes of each state. If a crime is committed the justice, upon complaint, issues a warrant for the apprehension of the criminal, which is served by the constable, and the offender is arrested and brought before the justice, and he is granted a public hearing for the purpose of determining the probable cause of his guilt or innocence. To make an arrest the constable may call upon the bystanders to assist him, and any citizen called upon, is in duty bound to aid the constable. If a justice of the peace or constable sees one commit a crime, an arrest may be made without a warrant. Sometimes a citizen arrests a criminal and marches him to the nearest officer, to whom he is given up. Sometimes the criminal gives himself up. The cases that a justice usually has cognizance of are those of assault and battery, theft, robbery, disturbance of the peace, civil cases in which differences for small amounts arise between citizens, and the posting of estrays; he may write contracts and wills, and has authority to marry persons.

Township Board. Under township organization, the trustee, clerk, and treasurer usually constitute the township board, and transact the business of the township. The assessor lists and assesses the property, personal and real, in the township. The township board levies the taxes, the treasurer collects the taxes, and the township board authorizes the treasurer to pay out the money. The township clerk keeps the minutes of the proceedings of the board in a book kept for that purpose, and whenever any township business is to be transacted, public notice thereof, under direction of the township board, is given and attested by the clerk. These matters are regulated by statute in each state, and vary somewhat. There is a

very general movement in every state for good roads, and the road overseer's position is much more important than formerly. The road overseer has charge of the roads and highways, and it is his duty to keep them in repair by calling out the male citizens to work on them, and by expending the money raised by the road tax to keep them in good condition. It is related that James Monroe, having retired to his home in Virginia after his long term of public service, was elected road overseer. In this office he displayed great zeal, and he made the people put the roads in such excellent condition that his neighbors did not wish him to serve a second term.

A Model. The township is the best model for local self-government that has yet been developed in this country. The school district is based upon it. In the township the citizens living under this organization decide chiefly what they need and how to supply their wants. They tax themselves for all local purposes. They decide upon keeping their roads in good condition, and they know and understand their local needs better than outsiders.

Oath of Office. All public officers take or subscribe to what is called the oath of office, usually with hand raised and head uncovered. They agree to discharge the duties of their office faithfully and to obey the constitution of the state and of the United States to the best of their ability. When delegates to a state convention meet to frame a new constitution for the state, said delegates do not take an oath to support the state constitution, but they do take an oath to support the constitution of the United States.

SUGGESTIVE QUESTIONS

In what way does the pupil first learn of political parties? Does he usually adopt the partisan views of his father? Give two reasons why boys usually watch policemen so closely. Who pays the salary of the mail carrier who delivers the mail for you? Why

does he wear a uniform? Show how control in school prepares one for obedience to law. How was it that in some of the states the towns antedate the counties, and in others the counties antedate the townships? Write a brief history of the township as a political unit. By what authority is one declared to be a voter? What are the usual qualifications of a voter? How many square miles in the county in which you live? How many townships in it? Who is a citizen? Give two good reasons why men who do not help to choose good men for office ought to pay a special tax; also give two valid reasons why they ought not to be taxed. If a new school house is needed, how is the money obtained to build it? What prevents a person from voting more than once at the same election?

What is the name of the township in which you live? How and why was it named? Can you write the name of the township officers of your township and tell briefly the duties of each? If a person lives in one township and owns a farm in another, where would he pay his real estate tax, provided it is not paid at the county seat? Write a description of a cow that has been "posted" before a justice of the peace. A road has to be made through farms from one settlement to another; can you tell how it must be done? A young man and a young woman go to a justice of the peace to get married; write out in full what you think would be a legal ceremony. If a bridge across a creek has a hole in it, and my horse steps into the hole and breaks his leg, have I a chance to get pay for the loss? What do you understand by an officer of the peace?

CHAPTER III

COUNTY ORGANIZATION

Meaning of the Word County. The word county originally meant a province governed by a count, the earl, or alderman to whom the government of the shire was intrusted. In England a civil division of the territory is called a county. In the United States the terms, the county, and the people of the county, are frequently convertible, and so, too, the county and the commissioners of the county, but this is rather a play upon the words employed than a strict construction of their legitimate use. There are other uses of the word. The following will illustrate one of them: "The city of St. Louis, under the constitution of Missouri, though not a county as that word is ordinarily used in the constitution, is in a qualified sense a county, being a legal subdivision of the state which bears county relations to the state, and having many important attributes of a county."

Not a Corporation. It has been held in general that a county is not a corporation, but that it is a political organization of a certain portion of the territory within the state, particularly defined by geographical limits, for the more convenient administration of the laws and police power of the state, and for the convenience of the inhabitants. Such an organization is invested with certain powers, delegated by the state for administrative pur-

poses, and is thus clothed with many characteristics of a body corporate. While in many respects it is like a corporation, the power to sue or to be sued is expressly conferred by statute.

In the Revised Statutes, or in any act or resolution of Congress, the word county shall include a "parish," or any other subdivision of a state or territory. The modern county organization is a combination of the New England system and the southern county unit.

How a County Is Formed. Establishing a county is setting apart certain territory to be in the future organized as a political community, or a quasi corporation for political purposes; organizing a county is vesting in the people of the territory such corporate rights and powers. The state legislatures divide the states into counties of suitable size for the convenience of the citizens and the administration of justice, and the protection of life and property. When the boundaries of a county are once fixed and the citizens of the county have determined by a vote where the county seat shall be located, the legislature can not remove the county seat or divide the county thus organized, unless the qualified voters decide first upon such division. However, the people of a county may remove its county seat by a two-thirds vote, but this right is conferred by statute. The feuds engendered by the removal of county seats or attempted removals in many of the states, would fill volumes. These are known in the history of some of the states as the "county-seat wars."

The legislature authorizes how the counties of a state shall be organized, what officials shall be elected or appointed, and what powers they shall be invested with. They shall have power to acquire land by purchase or gift for the erection of a court house, county jail, and other public buildings, at the county seat; to assess and

collect taxes, to enforce their collection, to apportion and pay out the money collected; to divide the county into townships, to build bridges, and to have roads and highways surveyed and kept in order. As a quasi corporation the county can sue or be sued.

COUNTY OFFICERS

County Officer Defined. A county officer is one by whom a county performs its usual political functions—its functions of government; who exercises continuously, and as a part of the regular and permanent administration of government, its public powers, trusts, or duties. He may be a judge of the county court, commissioner, supervisor, treasurer, or other local functionary. The statutes of each state usually designate the county officers, and prescribe their duties.

Our theory of government is one of balanced power even in the counties: the executive, legislative, and judicial; but these functions frequently overlap, and in some states the county government is not judicial. The county officers usually wield a larger influence than the township officers, and they exercise usually jurisdiction over the entire county.

County Judges. In some states the county commissioners or county judges are the chief officials.

The other officers are the treasurer, recorder, clerks of the courts, assessor, county attorney, auditor, sheriff, surveyor, coroner, superintendent of schools, and probate judge.

The county supervisors, commissioners, or judges have the custody of the property belonging to the county and they legislate for the county. The court house, jail, and county farm are under their care and supervision, and they transact the county business in the court house.

They levy the county and state taxes and apportion the county revenue for such purposes as they deem expedient and necessary for the county in the way of public improvements, laying out roads, and keeping them in good condition. They represent the county in all suits in which the county is a party. They provide the polling places in the county when an election is to be held, and appoint the judges and clerks. Their powers and duties are prescribed by the statute law of the state.

The Sheriff. The sheriff is an officer who represents the administrative power of the state within the county for which he is chosen; he executes the mandates of the courts of record in the county. He is the conservator of the peace, and he represents the sovereign power of the county. It is his duty to make arrests; he may bind persons to keep the peace. In his ministerial capacity he executes all processes issued from the courts, summons and returns juries, makes arrests upon warrants, and executes judgments and sentences.

County Treasurer. The county treasurer may be, or may not be, the county collector. If the county collector collects the money due the county he pays it over to the county treasurer, who is the custodian of the county's money. Whatever state taxes are collected and paid to the county treasurer he remits to the state treasurer, and the county money he pays out only on warrants issued by the county court or other competent authority. School money is paid only upon warrants issued by the proper school authorities. The county treasurer is under a heavy bond for the safe keeping of all funds entrusted to his care. Usually the money in his custody is kept in banks called county depositories, and which pay to the county a low rate of interest on daily balances. In counties having township organization, unless otherwise provided,

the collector turns over the school money on warrants drawn by the proper school officers.

All collectors and treasurers are required to make annual settlements, or oftener if necessary, with the county court, commissioners, or supervisors. These officials examine carefully how the books of the collector and treasurer have been kept, the number and amount of each warrant paid, and for what purpose; they audit and check the warrants paid, noting the ones authorized to be paid, but not paid; they count the money on hand, or loaned out, and they see whether the money has been properly applied to the payment of indebtedness. This is called "checking up the books."

County Attorney. In some states this officer is called the prosecuting attorney. He is the legal adviser for the county court and other county officers, and he prosecutes or defends cases in which the county or the state is a party to a suit. By virtue of his office he is the legal adviser of all the county officers, of grand jurors, of justices of the peace, constables, and road overseers. The larger cities usually have a legal adviser, the city counselor, to attend to the business of the city in connection with county business.

Circuit Clerk. In counties thickly settled and in which a large volume of legal business is transacted, the circuit clerk is the clerk of the circuit court. Sometimes the duties of this office and the recorder of deeds are performed by the same official; usually there are the two officials. It should be borne in mind that each state gives names and confers duties and responsibilities on its own officers.

The chief duties of the circuit clerk are to issue summonses, subpoenas for witnesses, and issue warrants for the arrest of persons charged with crime. He administers

the oath to grand and petit juries, and to witnesses. He keeps a record of the proceedings of the court, which is approved by the judge presiding.

Recorder of Deeds. As the title implies, the chief duties of this officer are to index and record various instruments of writing. He keeps a record of deeds, mortgages, and all other documents pertaining to the sale of real and personal property as the law directs. An instrument that is filed for record must be copied exactly as it is written into a book kept for that purpose. These records are open to the inspection of the public, and it is through an examination of the records of each county that the titles to land are traced and the owners are known. The recorder in some states issues marriage licenses and records the same in a book kept for that purpose.

Public Administrator. This official is styled in many of the states probate judge. The word probate is from the Latin verb *probare,* to prove or test. The chief duty of the probate judge is to prove and test the validity of wills, and to settle the business of deceased persons when not otherwise provided for. When a person dies possessed of property, letters of administration are usually granted to the wife of the deceased husband, or vice versa, or to some other person who resides in the state, either a relative or some responsible person of good character. In certain cases in which there may be minors who are not old enough to give a bond, the probate judge may appoint an administrator, or the public administrator may take charge himself, and wind up the affairs under the direction of the court.

County Surveyor. The county surveyor lays out new roads, determines the boundaries of tracts of land, establishes townships, section and half-section lines from the original survey or field notes made by the government

surveyor who established the mile and half-mile corners of each section. Frequently he lays out additions to the cities and towns in the county in which he lives. In cases of dispute, he surveys and determines the division lines between private citizens, if they request him to do so, and his decision is accepted as a finality. When a large tract of land is to be divided among persons having ownership therein, he is the person legally qualified to make the subdivisions. However, if the parties interested wish to choose another surveyor and all agree thereto, the one chosen can subdivide it. Unless otherwise provided for, he superintends the construction of county bridges.

The Coroner. The coroner is a county officer who inquires into the causes of sudden and violent deaths, while the facts are recent and the circumstances are fresh in the minds of the people. The inquiry made by a coroner is an inquest, the object of which is to seek information and secure evidence in case of death by violence or other unnatural means. The coroner acts only when there is a reasonable ground to suspect that death was so caused. Usually the coroner is a man who possesses both medical and surgical skill to determine the cause of the death of the deceased. A jury aids him in making or seeing that a thorough examination is made.

Salaries of County Officers. The salaries of most public officials are fixed by law, and the compensation for like service differs widely in each state, depending upon the amount of business transacted and the number of inhabitants in the county. The offices are sometimes divided into two kinds, salaried offices and fee offices.

SUGGESTIVE QUESTIONS

Define county. How are counties formed? What are the duties of the county officers in the county in which you live? What

salary has each one? How is the location of a county seat selected? What is the difference between a township and a county? Which antedates? Tell how the county officers of your county are elected. Are any of them ineligible for re-election? What qualifications must each possess? What kind of an oath does each take? What does the word "coroner" mean?

CHAPTER IV

CITIES, TOWNS AND VILLAGES

How Distinguished. Within a county may be located cities, towns, and villages, or one or more of these. There is no strict line of demarcation separating a village or a town from a city, except as the General Assembly[1] of the state defines by statute, under authority vested in it by the state constitution, which provides for the organization, classification, and incorporation of cities, towns, and villages, based on population. In a general sense a small cluster of houses is called a village; and a town or a city is incorporated under law. A city is a town incorporated.[2]

Powers. The authority exercised by cities and towns is chiefly executive or regulative, but they have some judicial and legislative functions which are conferred by legislative enactment or by charter. The state does not surrender its authority over cities and towns, or over counties composing the state. In the large cities of our country the governments thereof carry with them responsibilities greater than that of the states in which they are located. From this it is evident that there must be many local officers to look after, direct, control, and execute the laws and ordinances of a great city. Wherever men congregate in large numbers there must be lodged somewhere power to preserve order, to protect life and property, that in case of danger can be set in active motion speedily.

Note 1.—Generally styled the "State Legislature."

Note 2.—Throughout the west, generally, towns and villages have no legal status. In Kansas they are divided into cities of the first, second, and third classes.

Officers. There are many officers and deputies needed in a large city. These officers are executive and administrative, of whom some are elective and others appointive, owing to the laws by which the city is governed. To know the plan of organization of a city government, it is necessary to examine the laws under which it is chartered and what conditions the General Assembly of the state prescribed for its organization and government, and to ascertain in each case where authority and responsibility reside.

Mayor. The mayor is the chief executive officer of a city. His principal duty is to enforce, or to see that the laws are strictly enforced, and that the officers, elective and appointive, attend faithfully to their respective duties. His authority is co-extensive with the city limits. It is an elective office in the United States, and is for a period of from two to four years.

Council. The legislative department is styled the Board of Aldermen, the City Council, or Assembly. In most cities there are two houses, an upper and a lower, following the plan of the state legislature, and the two houses of Congress. Cities and towns are divided into wards, and these are still further subdivided into voting precincts. The members of the lower house are elected from wards, and the members of the upper house are elected from the city at large, though not in all cases. If there be two houses, the members of the lower house are usually chosen for two years, and those of the upper house for four years. After an election both houses (or one house, owing to plan of city government), organize by the election of a president as the presiding officer, and then form committees to look particularly after the business interests of the city.

Counselor. It is the duty of the city counselor to advise

the mayor, the aldermen, and the other city officers, in regard to their duties, liabilities, and responsibilities. The city is often a party to a law suit and expert legal advice is needed, and the city counselor is the representative and chosen defender of the rights of the city, and consequently of its citizens. The mayor usually selects the city counselor, and he is confirmed by the aldermen by ballot, as are all other appointive officers, unless in such cases wherein the civil service rules prohibit removals.

Treasurer. The city treasurer is the custodian of the money belonging to the city. He is under a heavy bond, and only pays out any money when he is authorized to do so upon the presentation of an order properly drawn by the city auditor and countersigned by the comptroller.

Assessor. The assessor lists all the taxable property, real and personal, in the corporate limits of the city. The assessor makes his returns ordinarily to the city clerk, but the city council by ordinance decides what the rate of taxation shall be for each year. It is always the intention of the aldermen to levy a tax sufficient to carry on all the departments of the city government without the taxes being excessively burdensome to the people.

Collector. The taxes of a city may be collected by the treasurer or a collector. However collected, there are checks outside of the tax receipts issued to the taxpayers when taxes are paid. The person who pays a tax is given a receipt which describes the property upon which the tax is paid, and if it be a receipt for a tax paid on real estate, the person paying said tax ought to be sure that the real property is correctly described, because it is difficult to get a tax wrongfully paid refunded. The auditor's books are the checks on the treasurer's or collector's receipts issued from day to day. The auditor is in a sense the expert bookkeeper of the city's financial

transactions. He draws warrants on the city treasurer, which must be countersigned by the city comptroller.

Chief of Police. This important officer is an appointive one. The chief of police is charged with keeping the order of the city. All regulations of this kind are called "police regulations." The larger the city, the greater is the necessity for the utmost vigilance. In the case of riots or other serious outbreaks, if the police force of a city is unable to restore order, the governor of the state may call out the militia to aid in suppressing disorder, or, on extraordinary occasions, the aid of the national government may be invoked.

City Governments.* The limits of a small text-book prevent an enumeration of all the officers required in a large city to attend to the public business. An enumeration of the chief departments will give some idea of the extent of the many interests involved. However, in a town many of the duties are combined under a few departments, and some are dispensed with. The charter of a city is its fundamental local law, prescribing its form of government, fixing and defining the powers and duties of its officers, and of the common council. The power or function of a city is to preserve, protect, and defend the lives of its citizens, to safeguard their property, and to promote the general welfare. The affairs of a city government should be conducted on the same business principles as a prudent business man adopts in conducting his personal affairs. In order to accomplish this object, there must be a business system of finance and accounting, so that responsibility can always be definitely and quickly placed where it belongs.

Revenue. Money is needed to meet the current expenses of a city government. All improvements and re-

Note.—For commission form of government, see supplement.

pairs made by the city must be paid for in taxes collected from the people. Public buildings must be erected on sites purchased for that purpose; streets graded and paved, and sidewalks laid, and these improvements are met by general or special taxes. Private property is sometimes taken for public use, and it must be paid for. Streets are lighted, water mains laid, parks and boulevards and playgrounds set aside, improved, and kept in order for the benefit of the public.

Judicial Department. The business is carried on by departments, each having a definite kind of work assigned to it. The judicial department consists of the various kinds of courts established for the enforcement of private rights and the redress of private wrongs, or for the redress of public wrongs, crimes, and misdemeanors. There is, however, no uniformity in the states as to the number, name, or organization of these courts. Each city has courts of its own.

Board of Public Works. This department is composed of three or more men whose powers and duties are prescribed by the city charter. They elect the city engineer, who ought to be a specialist in his profession. His title indicates the duties of his office. Usually the power of the board of public works is very great in planning what city improvements ought to be made, especially in modern cities. This department looks after all street repairs; the laying out of new additions to the city; the removal of the surplus water that falls in the city; the cleaning of the streets; the erection of street lights; regulating the placing of telegraph poles, electric light poles, street car poles; the construction of vaults, and of sewers and sewer connections; the grading and paving of streets; and the laying of water and gas pipes. This department has the power of establishing a system of street cleaning and

NEWLY ARRIVED IMMIGRANTS

sprinkling, which is sometimes called the street department.

Department of Fire and Water. This department is under the control of the fire and water commissioners. This board has the power to install, and it is its duty to maintain and operate a water works system for the use of and to supply the city, its inhabitants, and any corporation within the corporate limits of the city with water. Not only is water for all ordinary purposes to be supplied, but the city is to be furnished with ample fire protection. In this department, as in all the other departments, the establishing and maintaining such a department carries with it the means of providing the agencies for putting it into effect. This board appoints the chief of the fire department, who has the superintendence and control of the officers and men belonging to the department.

Health Department. Of late years the health of the people is properly regarded as the greatest national asset. It is the duty of this department to enforce the sanitary laws of the state and the ordinances of the city relating to public health, and to make such rules and regulations, not inconsistent with the laws enacted, as will tend to preserve and promote the health of the city. This board, through its specialists, may take all necessary precaution to prevent the spread of infectious or contagious diseases; to abate nuisances found anywhere within the city; to provide for the registrations of births, deaths and marriages, occurring within the city limits; and to prescribe rules and regulations governing the admission of patients to the city hospitals.

Department of Education. In many of the older states the department of education is connected with the government of the city, but in the middle and western states, this

department is entirely independent of the municipal government. Boards of education, as independent corporations, levy the taxes, purchase school sites, erect buildings, employ teachers, furnish all supplies, such as the district may require, and make all rules and regulations necessary for the instruction, health, and discipline of the pupils attending the city schools. The board of education, in the name of the school district, may sue or be sued in any court of law or equity in which such a suit may be brought.

New York City. The city of New York, the second city in population in the world, administers its business affairs through the following departments: Department of Finance, Public Works, Police, Health, Law, Fire, Parks, Taxes and Assessments, Charities, Commissioner of Jurors, Municipal and Civil Service Commissioners, Bureau of Buildings, Public Administrator, Department of Correction, Docks and Ferries, Public Education, Board of Estimates and Apportionment, Commissioner of License, Board of Water Supply, Aqueduct Commissioners, and Board of Assessors. The government of the city of New York is directly administered under the mayor, through departments, nearly all of which are divided into bureaus. The fiscal department is that of finance. The law department is under the corporation counsel appointed by the mayor, and the judicial authority is vested in a city court of ten judges. The departments of Docks and Ferries, Water Supply, Gas, Electricity, and Tenements are each under a single commissioner.

The class is advised to study the village, town, or city government near at hand, and compare it with the various departments of other municipalities.

SUGGESTIVE QUESTIONS

How is the mayor of the city or town in which you live, or near where you live, elected and for what length of time? Is he eligible to re-election? What qualifications must he have? How much money is raised by taxation each year to carry on the municipal government in your county seat? For what purposes is it expended? What is the rate of taxation on the hundred dollars' valuation? Is the property assessed at its cash value, and if not, at what per cent. of its cash value?

Name each of the city officers in the largest city of the state in which you live, and state what duties each is expected to perform. How many give bond for the faithful performance of duties, and for how much is each bond? How can the bond be collected if he does not perform his duty? Why does a policeman walk around with a club in his hand? What is the difference between a special city tax and a general tax? If the citizens in a certain part of a town or city want a street graded, or a sidewalk put down, how would they proceed to have it done? If the mayor of a city resigns, to whom would he send his resignation? On what day are city elections generally held? Can you assign any reason for holding such elections in the spring? In your state how may the limits of a town or city be extended?

CHAPTER V

STATE GOVERNMENTS—EXECUTIVE AND LEGISLATIVE DEPARTMENTS

Uniformity of Plan. The different state governments are all modeled on the same plan, patterned after that of the constitution of the United States. Each state has a state constitution, which is a printed document, and it and the laws enacted by the state legislature constitute the supreme law of the state. The people of a state, through their chosen representatives, can alter their state constitution by complying with certain requirements, or make a new constitution and submit it to the qualified voters of the state, to be ratified or rejected by a popular vote. Any statute law that the people are not satisfied with may be amended or repealed by an act of the legislature.

The thirteen original colonies were settled chiefly by people from Europe, but since the close of the Revolutionary War, all the other states have been formed out of territory acquired by treaty, by purchase, or by annexation. Each state is a republic, and maintains a republican form of government, which is guaranteed by the constitution of the United States. Each state is supreme within its own sphere, so that its authority does not conflict with that of the United States.

New States. During and after the Revolutionary War, till the adoption of the constitution of the United States, the original colonies called themselves states, but after

the adoption of the constitution they became a nation—the United States of America. Frequently the thirteen original states are spoken of as the colonies. All the other states have been formed out of territory belonging to the United States. Each state, since the adoption of the constitution, has been admitted into the Union by a special act of congress. Whenever a portion of territory had a sufficient population, the citizens thereof applied to congress to be admitted as a state. Congress, if favorably disposed, passed what is called an "enabling act," which authorized the citizens to form a state constitution.

A territorial convention is called, and the delegates elected for that purpose frame a constitution, which is submitted to the people for adoption, and it is then submitted to the congress of the United States, and, if satisfactory, congress passes another act admitting the new state into the Union on an equal footing with the other states already in the Union. Sometimes the President admits the state by proclamation, if not otherwise provided for. Owing to political or other reasons, the admission of some new states has been unnecessarily delayed. This, however, belongs more particularly to the political history of the country than to its constitutional history.

Tersely put, each state has an individuality of its own, and the citizens generally take great pride in the state in which they live, and are as loyally devoted to it as they are to the national government. The most popular theory of the state is that of indestructible states forming an indestructible Union. Each state has a seal, a coat-of-arms, and a motto. Some of them have nicknames. The nickname of each state has a definite meaning, usually referring to some sportive or contemptuous quality or attribute.

Units Composing a State. A state is composed of coun-

ties, and, for purposes of the state and national governments, the state is divided into election districts, namely, for the state legislature, the house of representatives and the state senate, and into congressional districts; there is a further division into judicial districts. Each state elects its own officers; and its government, the same as that of the national government, is divided into three coördinate departments: the legislative, the executive, and the judicial. The first enacts or passes the laws; the second enforces or executes the laws; and the third interprets and applies the laws to the cases brought before it for settlement.

Executive Department.

State Officers. The chief officers of a state are a Governor, Lieutenant-Governor, Secretary of State, State Treasurer, State Auditor, Attorney General, and State Superintendent of Public Schools. It should not be inferred that these are the only officers elected or appointed to represent the state in all of its activities. To arrive at a clear conception of the number of state and county officers there are in a state, one must consult the "Blue-Book," which contains this information, compiled, usually, by the Secretary of each state.

The Governor. The Governor stands in the same relation to the state that the President does to the United States. He is the chief executive and administrative officer. The voters take deep interest in the election of a Governor, next to that of the election of a President. He shapes largely the political policy of his party in the state, and he may influence legislation if he has a majority of the members of the house of representatives and of the senate in sympathy with his opinions; but should a majority of either house be opposed to his legislative rec-

ommendations, then his advice may be unheeded. Now and then a governor is elected who is really a governor of the entire people of the state, but a large number of them are in fact governors because of a majority in that political party that endorses their policies. The worst and most bitter political contests are those within a party, because the opposite party, on general principles, as party work goes, is on the other side. In times of danger there is always patriotism among the people to rally to the support of a governor or any other public official who tries honestly to do his duty as an official and a citizen. A governor may be hampered in various ways by other officials, state, county, and city, over whom he has no control.

It is customary in this country for the governor, immediately after his election, and at the assembling of the state legislature to send a message in writing to each house, in which he outlines his policies, and suggests such changes in the management of state affairs and the enactment of such laws as appear to be demanded by the exigency of present conditions. The legislature is not required by law to take cognizance of the governor's recommendations, though it may do so in whole or in part. Notwithstanding this, much authority is exercised by the governor of the state. Each state has provided by law for boards and commissions to conduct certain administrative phases of the state's business. These bodies are usually nominated by the governor and confirmed by the state senate. The duties and responsibilities devolving upon the governor are set forth in the state constitution.

Lieutenant-Governor. Ordinarily, the lieutenant-governor has little to do except when the state legislature is in session, and then he is the president of the state senate. Should the governor die, be impeached, resign his office,

or be temporarily absent from the state, the lieutenant-governor becomes the acting governor of the state.

Secretary of State. The secretary of state is its chief clerk, and he keeps its seal and records, including its legislative and administrative proceedings. He canvasses election returns, state and national, and issues election certificates. Whenever state records are to be consulted, he supplies the information. Besides understanding his duties well, the secretary of state ought to know how to meet people pleasantly and courteously. He is the state letter-writer whenever official information is to be communicated.

Other State Officers. The state treasurer is the custodian of the money belonging to the state. The state auditor is, in brief, the bookkeeper and general accountant of the state. He is supposed to know the resources and the expenditures from year to year, in order to carry on the state government.

The attorney general is the state's legal adviser, and the state superintendent is the educational head of the public-school system of the state.

Qualifications. The qualifications of all the state officers are prescribed by the constitution of the state, and are explicitly enumerated, as are also what things may disqualify or render a public official ineligible.

Legislative Department

It is proper to take a brief survey of state constitutions, since they are all modeled on the same general plan, but varying in details. The constitution of the United States, at the time it was framed and submitted to the several states for ratification, was struck off along independent lines, embodying the ripest and best thought of American statesmanship. It was in every sense a new governmental experiment, and the states, in framing their

constitutions, embodied its most salient features. The chief subdivisions are the Bill of Rights; the three coördinate departments—Legislative, Executive, and Judicial; and the miscellaneous provisions. Many of the miscellaneous provisions are supplemented by legislative enactments.

State Legislature. The state legislature is composed of two houses: the senate and the house of representatives. So far as originating bills, these bodies have equal power. No bill can become a law unless it is passed by a majority of both houses. The state senate is always much smaller in its membership than the house of representatives. Both houses are elected by the same citizens. In most states each county is entitled to a representative, and the most populous may have several, and the large cities may have a very much larger number. Each state in such cases provides for and determines how many representatives the cities are entitled to on a basis of population. A representative is elected for two years. Each state is divided into senatorial districts. For instance, the state of Missouri is divided into thirty-four senatorial districts. The term of office is four years, one-half the senators being elected every two years. This plan of election insures some experienced members in the senate each session. When the legislature convenes, the members of the lower house meet in political caucuses and agree upon the persons that each party will present for officers during the session. The presiding officer of the house is elected in open session, and he is called the "Speaker." When he is absent, a speaker *pro tem.* is chosen to preside. In the senate the lieutenant-governor presides, but in his absence, the president of the senate. The senate then elects its other officers the same as the house.

Work of Committees. Nearly all the work of the legis-

lature is done by committees. There are two kinds of committees: general and special. In making up the committees of the house, the speaker names the members. In the composition of the committees, the intention is to put each man on a committee with whose business he has some knowledge, perhaps expert information. The lieutenant-governor appoints the senate committees, which correspond to the standing committees of the house.

Until the houses are regularly organized, no legal business can be transacted. Any bill, to become a law, must be passed by a majority vote of all the members of each house, and then be signed by the governor, or, in default of his signature, an act may become a law in certain cases; but if he vetoes it, it may be passed by a two-thirds vote of each house. The laws passed by a legislature are printed by the state, and are designated "Special Acts," unless it be a revising session.

Each state constitution provides for holding regular sessions and special sessions of the legislature. The date of meeting of the regular sessions is fixed by law, and the length of the session; but an extra session may be called by the governor when the condition of the state demands it, which the governor sets forth in his proclamation calling the session, or else he states the purpose of their convening in a special message after the legislature assembles. Only the subjects thus mentioned can be considered. The pupils studying the book will do well to refer to a copy of the Rules and Regulations governing the proceedings of the two houses of the legislature of the state in which they live, and trace some bill through all of its stages till it becomes a law.

Election of Officers in a State

An Election. An election is a choosing or selecting a person or persons to fill an office in a department of gov-

ernment—in a school district, township, town, city, county, congressional district, or state, as distinguished from an appointment made by some competent authority. An election is performed by citizens voting for the persons whom they wish to represent them. Elections are effected through the instrumentality of boards or commissioners of elections, by prescribing, where, within certain boundaries, on a certain day, and between certain hours, ballots shall be cast, recorded, and certified to, and returns made.

Office-Holders. In any one of the most populous states, the number of persons holding offices, large and small, is very large. Some states have as many as 8,000 or 10,000 school districts, and in the country districts there are three directors to each district, and in the towns and cities, six directors to each district. Then each county is divided, in all the newer states, into townships, and each of the country townships has a justice of the peace and a constable. These are doubled or trebled in the county seats. From these illustrations, one can imagine the large number of persons holding office in a county, and on upward to the highest state officials. Nearly all of these offices are filled by election, and this means voting by ballot.

Getting Candidates. Terms in political offices, for most positions, are short, generally two years, some for four years, and a few for longer periods. There are men in every county that want office; some do not care to become candidates for any office; and others are too much engrossed with their own business to give it any attention. The men who want office may announce themselves as candidates, subject to the endorsement of their political party, or decide to run independently. Candidates, however, may be nominated either in party convention, by petition, or by direct primaries. After the nominations

have been made, in due time the election is held, and the person receiving the highest number of legal votes cast is elected. At school elections, the plan is much simpler. Usually a hat is passed around, and each voter writes the name of the person he votes for on a slip of paper, which is put into the hat, and these slips are counted; sometimes it is done *viva voce*. School officers and township officers are usually elected in the spring, though not always. The county elections are held in the fall, at the time of the state and congressional elections.

County Officers. The candidates, as has been mentioned, are chosen in county conventions. The chairman of the county committee of the party of which he is a member issues a call, signed by the clerk, directing the voters of each township, town, or city to elect and send delegates to the county convention to nominate county officers. This convention is held at the county seat. The delegates assemble at the appointed hour, each having a certificate of his election. The convention is called to order; a temporary chairman and clerk are elected; committees are appointed, on permanent organization, on credentials, and resolutions; permanent officers are elected; the organization, upon reassembling, is perfected, and the delegates then proceed to the regular order of business. The same method is pursued by all the political parties.

For the nomination of members of the house of representatives, except in populous cities, each county sends its quota of delegates, and these, in convention assembled, nominate the candidate of their party for congress. The same method is followed in nominating judges for the circuit courts of many of the states, and in nominating state senators.

State officers are nominated by delegates from the counties, in a state convention assembled. Thus, it is seen that

in nominating conventions, from the school district to that of the highest office in the state, the general plan is the same—partly direct and partly through delegates.

The Campaign. From the time nominations of county and state officers are made, till the election, is called "the campaign." During the campaign, each party tries to get all its members to register, if registration is necessary, and to persuade as many voters as possible of the opposite party to change their votes. It is during the time of political campaigns that men called "spell-binders" are abroad in the land, making long speeches on small subjects, and short speeches on long subjects.

Election Day. The day of the county and state election is uniform throughout the state. The poll-books are made out in advance for each voting precinct. Inside the room or booth where the voting is done, the judges and clerks of the election sit. They belong to the two great political parties. The names of the voters are already on the poll-books, if in a city where a registered list of the qualified voters is made. The person who comes in to vote, if he is unknown to any of the judges or clerks, gives his name and residence, and he may answer questions to settle any doubts—even be sworn—before he hands in his ballot. The voter is handed one of each kind of ticket, and he selects the one that he wishes to vote. If it does not have the names of all the men he wants to vote for, he scratches out such, and in their stead writes those of his choice. He now folds up his ticket, if he wishes to, and hands it to one of the judges, who writes a number on it, and puts it into a box which has a slit in it through which the ticket is put. When the hour arrives for closing the polls, the judges and clerks, usually in the presence of witnesses, open the box and proceed to count the votes, and put the result on tally-

sheets. They string the ballots cast, put them into the box, lock it, and take it with its contents to the proper custodian of the ballots and the tally-sheets. In due time the votes are canvassed, the results tabulated, and certificates of election issued by the proper official.

The pupil will remember that each state, through legislative enactments, prescribes its own methods of procedure in all cases whatsoever. The qualifications of voters are similar in all the states, but they are not uniform. The word vote is from the Latin word *votum,* a wish or a vow, and a voter is an elector who votes, or is entitled to a vote.

SUGGESTIVE QUESTIONS

What states touch the state in which you live? What is its latitude? Its longitude? How many counties in it? Which is the largest? Which the smallest? How were the boundaries determined? What salary does the governor receive? The state superintendent? What are the qualifications of each? How many times must a bill be read in the legislature before it can become a law? What do you understand by "Reed's Rules of Order"? What are the qualifications of a member of the house of representatives, and of the senate in your state? What compensation does each member receive? What is meant by "calling the yeas and nays," and how is it done? How many representatives and how many senators in your state? How are candidates nominated for office? Repeat the oath of office that a member of a state legislature must take. Who judges of the qualifications of a member of either house, provided there be a contest? By what authority can a member be expelled? When is a member recognized as "having the floor"?

How many voters in the election precinct where you live? What was the total vote cast in your county at the last election? How many congressmen is your state entitled to? What qualifications must a voter have in the state in which you live, a justice of the peace, a representative in the state legislature?

CHAPTER VI

STATE GOVERNMENTS—THE JUDICIAL DEPARTMENT

State Courts. The Judiciary is that department of the state government which refers to its courts. These officials are called judges, and a judge is a public officer whose function is to declare the law, to administer justice in a court of law, to conduct the trial of causes between litigants according to legal forms and methods.

Kinds of Laws. The word law as a legal term is used in a restricted sense. Blackstone's definition is: "A rule of action dictated by a superior, and which an inferior is bound to obey." However, the laws of a state usually mean the rules and enactments promulgated by the legislative authority of the state, or those long-established customs and usages which have the force of laws. For ordinary purposes of treatment, laws are divided broadly into two classes: Civil Law and Criminal Law. Civil Law is the law of citizens—the law which the people of a state ordain and establish for their own government.

The Civil Law is still further divided into common law, statutory law, and equity law. Criminal Law may be common law, statutory law, or a combination of both.

Common Law. Every country has its common law. Ours is composed partly of the common law of England and partly of our own usage. It deals with issues between individuals and corporations, such as contracts, the relation of employer and employee, with title to property, if

it is in dispute, or when the transfer of real estate is involved; with the collection of debts; with wrongs done to one's property or person, or any other kind of action pertaining to business which may be brought in a suit.

Statutes. The laws passed by a legislature are spoken of as statutory laws, or simply as statutes. As has been previously stated, the statutory law will, if in conflict with common law, displace it. In a trial where the enforcement of a contract, either under the common law or a statutory enactment, would work a hardship or a positive injustice, then the court may try the case in equity, which is an attempt to decide the case according to exact justice between the contending parties. The distinction between a court of equity and a court of common law consists in the different modes of administering justice in them, the manner of proof, of trial, and of relief.

To obtain a legal remedy in case of disagreement, resort is had to a court. Under due process, the matter is brought before a judge and jury, unless the judge tries the case himself. Here the facts are set forth by attorneys for plaintiff and defendant, the evidence is sifted, and a verdict is reached, based upon the facts and the law. But in equity cases, the judge hears the evidence, and decides accordingly.

Criminal Law. A crime is an act committed or omitted, in violation of a public law either forbidding or commanding it.

There is a clear distinction between a public wrong and a private wrong, which is a civil injury or a tort. A crime, therefore, is a breach and a violation of public rights and duties due to the whole community, in its aggregate capacity, it is a wrong of which the law takes cognizance as being injurious to the public, and

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punishes the offender in a criminal proceeding prosecuted in the name of the state, or in the name of the people of the state. The words *crimes* and *misdemeanors* are used interchangeably, but a crime usually denotes an offense of a deeper and more atrocious character than a misdemeanor, which comprises smaller faults and omissions of less consequence than crimes. A crime punishable by death is a capital offense. An infamous crime is an offense which renders the perpetrator infamous at common law, such as treason, felony, and any offense involving falsehood which might injuriously affect the administration of justice by the introduction of falsehood and fraud. A statutory crime is one which has been made criminal by legislative enactment; an indictable offense at common law is a common-law crime. A criminal is a person who has committed an indictable offense against the public.

Judges. The lowest form of court in the various states is that of the Justice of the Peace. The people usually speak of this officer as the 'squire or magistrate. Justices are elected by the people, and they reside among those who elect them. They are conservators of the peace for the township in which they live. In cases of small or trivial disputes between citizens, and in crimes and misdemeanors, they take cognizance. The chief purpose of justices' courts is that the people may have an opportunity to resort to law in the community in which they live, without incurring heavy expense. Justices have a limited jurisdiction in criminal and in civil proceedings. Their courts are, strictly speaking, the people's courts, and they are scattered throughout all the states and territories of the United States. Litigants, if not satisfied with the verdict rendered in the justice's court, can always take an appeal to a higher court.

Circuit Courts

Judicial Circuits. In most states, the court above the justice's court is the circuit court. The state is divided into judicial circuits. These courts are superior to the justice courts, county courts, municipal and police courts, and probate courts, and they have a superintending control over them. These courts have jurisdiction over a wide range of matter in both civil and criminal cases. These are the courts in which the greatest number of trials take place, and, in counties where there is not a special criminal court, criminal cases are also tried. In large cities, the circuit courts are nearly always in session, and in a circuit composed of a number of counties, at least two sessions are held each year.

The state constitution prescribes the qualifications of the judges of the various courts of the state, and provides for increasing the number of circuit judges, if the population and the legal business render redistricting necessary; but the redistricting must be done by the legislature. The tenure of office is uniform in the same state, but not in the different states. Circuit judges are usually elected for a term of six years, and their compensation is paid by the state. They are allowed a larger salary in the cities than in the country circuits. Circuit judges hold court in the court house of the county, unless otherwise provided for.

The Grand Jury. To assist a circuit judge in holding court, two officers of the county must aid him: the clerk of the court and the sheriff. There is always impaneled a grand jury, composed of twelve men, chosen usually by the county court, or by the sheriff, when the judge or county court orders, from the different parts of the county, to inquire into any crime that may have been

committed, and to send for witnesses to appear before them, to be examined for the purpose of securing evidence. The investigations in the grand-jury room are supposed to be strictly private. The sheriff is the active officer of the court. Whenever the grand jury investigates charges against an offender, and finds them to be true, or believes them to be true, from the evidence produced, they present an indictment against the person supposed to be guilty, and the offender is then arraigned in court, and tried before a jury, summoned by the sheriff, to determine, from the facts, *pro* and *con,* whether he is guilty or innocent. The case is prosecuted by the county or state's attorney, whose duty it is to prosecute violators of the law, while the accused is defended by counsel who endeavor to prove his innocence. All licensed attorneys are officers of the court. Prosecutions of felonies may be brought by prosecuting attorneys, without an indictment by a grand jury. The petit jury is in fact the trial jury in civil and criminal cases. The word trial, a term in common use, is the judicial examination of the issues between parties to a suit, whether they be matters of law or of fact.

The Appeal. When either party is dissatisfied with the verdict rendered in the circuit court, an appeal may be taken to an appellate or to the supreme court. The verdict reached in a court is technically called a judgment, and a higher court may reverse or confirm the judgment of the inferior court. Unless an appeal is taken within a certain time, the judgment stands.

Criminal Courts

These courts are established for the purpose of trying criminal cases, and the judge is called a criminal judge.

In criminal cases, the state is the plaintiff, and its lawyer, in the name of the state, prosecutes. The order of procedure in a trial is prescribed by the statutes of the state. The prisoner is brought into court by the sheriff or by a deputy sheriff; a jury is impaneled and sworn; the crime of which the prisoner is charged is stated; the witnesses are called and sworn, and each of these, in turn, testifies directly in behalf of the state, and then is cross-examined by counsel for the defendant. This examination is conducted by the prosecuting attorney, who may be assisted by other counsel. After the state has examined its witnesses, and they have been cross-examined, the witnesses for the defense are sworn, and testify. When the examination of witnesses has closed, the opposing counsel address the jury, and, when their speeches are concluded, the instructions are given to the jurymen, who privately arrive at a verdict, in which they find the offender "guilty" or "not guilty." The instructions are passed upon by the judge before they are submitted to the jury. Should the jury fail to agree, the jury is discharged, and a new trial is had at another term of court. In certain cases the prisoner may give bail for his appearance at the next term of court, or he may be remanded to jail.

Appellate Courts

Between the circuit courts of the state and the supreme court there is, in some states, an intermediate court, called the appellate court. The state may be divided into two or more appellate districts. Sometimes these courts are designated as courts of appeal. Such courts are established when the supreme court of a state is far behind in its docket, so that the less important cases that are appealed from the lower courts may be promptly disposed of.

Supreme Courts

The highest state court is the Supreme Court. In Missouri, for instance, the supreme court is divided into two divisions; one division tries civil and equity cases, and the other division has charge particularly of criminal cases. When the docket is not crowded, the two divisions may sit together. The jurisdiction of the supreme court of the state is coextensive with the limits of the state. As its name implies, all other courts in the state are inferior to it.

SUGGESTIVE QUESTIONS

How many circuit courts in the state in which you live? Are there any courts between the circuit courts of your state and the supreme court? What constitutes the judicial department of your state? Into what classes are the courts of your state divided? Explain the difference between a crime and a misdemeanor. What is the difference between a civil code and a criminal code? If a man steals a sheep worth $10.00, what kind of a crime is it? If a boy steals a watermelon, what kind of an offense is it, and why? Suppose a farmer in crop time plows on Sunday, what should be done with him, and to whom should he be reported? Is betting on a horse-race an indictable offense in your county? Give reasons for your answers. A man shot a neighbor's dog and they went to law about it. In what court would the trial be tried? What is meant by swearing a witness? What is perjury? If you were accused of a crime, what kind of a jury would you prefer to be tried by? What is meant by trying one by his peers?

What is the law-making department in the state called? If a judge decides that a certain decision should be carried into effect, does he carry it into effect himself? How is it done? Does ignorance of the law excuse anyone? Is a little child or an idiot guilty of crime? Why?

CHAPTER VII

GOVERNMENT OF THE UNITED STATES

The Constitution. The political entity or entirety formed by the adoption of the Federal Constitution is known among the nations of the earth as the United States of America, and it embraces the whole territory or country subject thereto. The constitution is a written document adopted by the original states as the supreme law of the land. A constitution is a fundamental law, and is the basis of government. A constitution should guard the rights of personal security, personal liberty, private property, and of religious profession and worship. Constitutions are mainly for the protection of minorities. Our Federal Constitution went into effect on the first Wednesday in March, in 1789. It was ordained and established by the people of the United States for their government. It was intended to endure through a long lapse of ages.

The Preamble. The Preamble to the Constitution of the United States sets forth its objects, and it is as follows:

We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

The preamble, which may be regarded as the enacting clause, is a part of the constitution, because it sets forth

in the clearest possible way the aim which the delegates had in view in making this instrument.

The original constitution, before any amendments were made to it, consisted of seven Articles, numbered in Roman numerals from I. to VII., respectively.

Under Article I. are ten sections; Article II., four sections; Article III., three sections; Article IV., four sections; Articles V., VI., and VII. are not divided into sections; but the fifteen amendments to the constitution are numbered consecutively as articles, and their subdivisions are called sections.

Each pupil should have a copy of the Constitution of the United States, for study and ready reference. It should be read through very carefully, and then discussed, paragraph by paragraph. From reading the constitution, the learner will observe that it is divided into three departments: the Legislative, the Executive, and the Judicial.

LEGISLATIVE DEPARTMENT

Article I., in fifty-three paragraphs, treats of the legislative powers of the congress of the United States. Congress consists of the Senate and the House of Representatives. This body is the law-making department of the United States. Members of the House are chosen for two years in every state of the Union, and the Senators are chosen for six years, by the legislatures of their respective states, on joint ballot. Each state is entitled to at least one representative, and above that they are apportioned by population, each state being divided into congressional districts. This division is made by the state legislature. Each state is entitled to two United States Senators. Under the constitution, congress shall meet at least once each year, and such meeting shall be on the

first Monday of December. This date is the beginning of a regular session. Extra or special sessions may be designated at other dates. On extraordinary occasions the President may convene one or both houses of congress by proclamation. The sessions of congress are known as two kinds: the *long session* and the *short session*; the former is supposed to be seven months and the latter four months.

The following illustrates how an extra session of congress is called:

PROCLAMATION CALLING CONGRESS INTO EXTRA SESSION

Washington, D. C., March 4.

By the President of the United States. A proclamation.

Whereas, by the special message dated January 26, 1911, there was transmitted to the Senate and House of Representatives an agreement between the Department of State and the Canadian Government in regard to reciprocal tariff legislation, together with an earnest recommendation that the necessary legislation be promptly adopted; and

Whereas, a bill to carry into effect said agreement has passed the House of Representatives, but has failed to reach a vote in the Senate; and

Whereas, the agreement stipulates not only that "the President of the United States will communicate to Congress the conclusions now reached and recommend the adoption of such legislation as may be necessary on the part of the United States to give effect to the proposed arrangement," but also that "the governments of the two countries will use their utmost endeavors to bring about such changes by concurrent legislation at Washington and at Ottawa;" now,

Therefore, I, William Howard Taft, President of the United States of America, by virtue of the power vested in me by the Constitution, do hereby proclaim and declare that an extraordinary occasion requires the convening of both Houses of the Congress of the United States at their respective chambers in the City of Washington on the 4th of April, 1911, at 12 o'clock noon, to the

end that they may consider and determine whether the Congress shall by the necessary legislation make operative the agreement.

All persons entitled to act as members of the Sixty-second Congress are required to take notice of this proclamation.

Given under my hand and the seal of the United States at Washington the 4th day of March, in the year of our Lord one thousand nine hundred and eleven and of the Independence of the United States the one hundred and thirty-fifth.

(Signed) WILLIAM H. TAFT.

By the President. (Signed) P. C. Knox, Secretary of State.

Secret sessions of either house may be held to consider such measures privately, in cases of threatened violence at home, or foreign complications where immediate action is necessary. During a secret session or sitting, all persons, except members and officers, are excluded, and communications and debates are not made public.

Adjournment of Congress. Article I., section 5, paragraph 4, constitution, is as follows: "Neither house, during the session of congress, shall, without consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting."

An adjournment for more than three days must be by concurrent resolution, which fixes a day when the adjournment shall commence and terminate. However, in case the two houses cannot agree, the President may adjourn them to such time as he thinks proper. The adjournment of what are known as the long sessions of congress, or sessions terminating at the will of the two houses, must close by agreement. The closing of a session of congress is a very formal proceeding.

Terms of Office and Compensation. Members of congress are Senators, Representatives, and Delegates. Before a territory is admitted, as a state, into the Union, it may elect members to congress, and these are named

territorial delegates. They may sit in the house and participate in the discussion of all matters pertaining to their respective territory, but they do not vote.

Members of congress are persons who hold certificates of election, properly attested by the governor and the secretary of the state from which they are elected.

The certificate of election, whether the member be elected to the senate or house of representatives, is filed with the clerk, and his name is placed on the roll, in order that the sergeant-at-arms may certify when the member-elect can begin to draw his salary.

The representatives are apportioned among the several states according to the population, as it is determined by the Government Census every ten years. Beginning with the first census, in 1790, the basis of apportionment has changed every ten years thereafter. Our country was the first in the world to lay its organic structure upon an enumeration of the whole people, to be legally obtained, as a basis of representation in its most numerous house of the national legislature.

Organization of Congress. The Vice-President is the presiding officer of the senate. Each senator has a seat of his own; likewise each member of the house. The assistant doorkeeper of the senate keeps a register of the seats in the senate chamber. When a senator desires to change his seat, he files a written notice with the assistant doorkeeper, stating what seat he desires, when it becomes vacant. The assistant doorkeeper notes the day, the hour, the minute, the application is filed, and when the seat becomes vacant, it is assigned to the senator whose application was first made. Occasionally, on account of age or physical infirmity, seats are awarded by preference. A senator usually occupies the same seat during his entire term of service. To the right of the Vice-President's desk is

the Democratic side of the chamber, and to the left is the Republican side.

As the presiding officer of the senate, the Vice-President has great power over the proceedings of that body. All communications sent by the President to the senate, or from the house of representatives, or of any person who communicates with the senate, are received by him. By virtue of his office, he directs the order of business, and while he does not participate in debate, except to assign reasons for his opinion, he casts a deciding vote in case of a tie. All bills and resolutions passing the senate he signs officially.

The Senate. The senate, like the house of representatives, is composed of members and officers. Should the Vice-President be absent, and pending the election of a president, *pro tempore,* the secretary of the senate, or, in his absence, the chief clerk, presides. There are numerous officers to assist the senators in the transaction of business. The number of such officers and their election is left to the senate. The standing committees of the senate are made up in the following manner: the senate proceeds by ballot to select a chairman of each committee. A majority of all the votes cast is necessary to a choice, but the other members may be elected by a plurality vote. All other committees, unless otherwise ordered, are chosen by ballot.

Business in the Senate. A majority of the members of each house constitutes a quorum for the transaction of general business. The senate is always an organized body. The opening of the daily sessions is conducted in the following manner: The presiding officer having taken his seat, a quorum being present, the journal of the previous day is read and approved. To dispense with the reading of the journal requires unanimous consent. When the

reading of the journal is concluded, the presiding officer lays before the senate the business, in an established order: Messages from the President; reports and communications from heads of departments, addressed to the senate; bills, joint resolutions, and such other messages from the house of representatives as may remain upon the table, are disposed of, from the previous day's session. These matters having been disposed of, the following order is observed: The presentation of petitions and memorials; reports of standing and select committees; the introduction of bills and joint resolutions, concurrent and other resolutions. It is regarded as being out of order for a senator to ask, during the presentation of any of the foregoing matters, for their consideration, unless unanimous consent is obtained. The foregoing order is known as the "Morning Business" in the senate. After it is completed, the senate proceeds to the consideration of the "Calendar" until two o'clock, except in cases of special orders. During the time the calendar of bills is under consideration, bills and resolutions not objected to are taken in their order, and each senator is entitled to speak once, and for five minutes, on such measures.

General Orders. Later in the day, the Calendar of "General Orders" is taken up and proceeded with in its order. All special orders are fixed by the senate by a two-thirds vote of the senators present, and when the time arrives for the consideration of such special orders, the presiding officer must lay it before the senate, unless there be unfinished business of the preceding day. If special orders are not disposed of at the date fixed for their consideration, they take their places on the calendar of special orders, unless, by adjournment, they become unfinished business.

When a senator presents a petition, he explains briefly

its purport, and asks that it be referred to the appropriate committee; but when a bill is offered, it is carried by a page to the clerk's desk; the title is read, and it is referred to the proper committee by the presiding officer, unless the senate, by a vote, gives a specific reference. All bills and resolutions are numbered, printed, and are laid upon the desks of the members, and these numbers begin anew with each session of congress. Each house numbers its bills and resolutions *seriatim*.

Senate Committees. The business of the senate, like that of all other legislative bodies, is conducted almost entirely by committees. There are more than forty different "standing committees." These committees usually consist of either seven or nine members.

Standing Rules. The Senate of the United States has adopted a set of rules for conducting its business. These rules state specifically the duties and responsibilities of the senators, how the business must be conducted, the rules of order, the presentation of bills, resolutions, petitions, papers, conferences with committees from the house, sessions with closed doors, executive sessions, and such other matters as properly come before such a body.

To suspend, modify, or amend any rule, or any part thereof, shall be in order, provided one day's notice in writing has been given specifying precisely the rule or part of the rule proposed to be suspended, modified, or amended, and the purpose thereof. By unanimous consent all rules may be suspended, unless specifically excepted.

The House in Session. On the day fixed for the first meeting of a congress, the representatives-elect in the hall of the house of representatives, at the hour of 12 m., are called to order by the clerk of the last house. The roll of members and delegates are called by states in

alphabetical order. Upon the completion of the roll, the clerk announces the result, and if a quorum be present, that fact is stated in due form, and the first thing in order is a motion looking to the organization of the house by the election of its officers. A motion is now made that the house proceed to the election of a speaker to preside over its deliberations during the —— congress. Nominations are now declared to be in order. When the nominations are closed, the clerk requests four members to act as tellers as the rules require that the election of a speaker shall be *viva voce*. The roll is called alphabetically, but not by states. When the tally is presented the clerk reports that they agree and he states the result. If a candidate has received a majority of all the votes cast, the clerk announces the fact and declares that the person having received a majority of all the votes cast is duly elected speaker of the house of the —— congress. Whereupon the clerk designates two members to conduct the speaker to the chair. The member of the house having served longest, continuously, administers the oath to the speaker. Unless a special message be now received from the president of the senate, the speaker announces that the next business in order is the completion of the organization of the house by the selection of the clerk and other officers. It is customary for a member to move the adoption of a resolution to complete the organization of the house containing the names of the caucus nominees for the offices to be filled. This resolution includes the clerk, sergeant-at-arms, doorkeeper, postmaster, and chaplain. The speaker of the house administers the oath to the officers chosen.

Notification is now sent to the senate that a quorum of the house of representatives has assembled and elected a speaker and a clerk, and that the house is ready to

proceed to business. A joint committee from the house and the senate now wait on the President to notify him that a quorum of the two houses has assembled, and that congress is ready to receive any communication he may be pleased to make.

Committees of the House. The organization of the house is not complete till the appointment of the standing and select committees. This requires several days, during which time the house meets and adjourns from day to day. Standing and special committees are appointed by the speaker of the house, while special committees are appointed by a resolution adopted by the house. At the beginning of the last century the number of standing committees was seven, and the number is now not far from fifty. The number of members of a committee varies from three to seventeen, usually fifteen, thirteen or nine. If a committee be created for a special purpose it can not consider any other matter without additional authority being conferred upon it.

Committees at Work. No one can obtain a clear idea of the working methods of the Congress of the United States without knowing what the committees do. Outsiders have no real comprehension of the amount and the character of the work actually done by committees and of which no record is made. It is not an uncommon thing for twenty-five or thirty thousand original propositions to be submitted to the house of representatives during a session, for consideration, under the forms of messages, bills, resolutions, petitions and memorials. To dispose of such a volume of business, it is necessary for the members of the house to be divided into a large number of standing and select committees, and then to still further divide these into sub-committees. The measures are distributed to the standing and select com-

mittees first, and thence to more than two hundred sub-committees. Thus it will be seen that the method of business adopted by our system of government is that of government by committees. It is only in the committee room that the inside history of any measure is best known. Very little of this history is ever known on the outside, or is made known, unless some member chooses to tell it after he is out of office.

How Committees Are Organized. Every member of the house serves on some committee; some are members of several committees. A majority of the members of a committee belong to the dominant party in power. In the making up of a committee, the first named member is chairman. Each standing or select committee has a clerk appointed by the chairman. Every bill or communication presented to congress must be referred to some committee, unless otherwise ordered. The jurisdiction of each committee is fixed by a rule of the house. The committee work is secret, but when measures of great importance are being considered, persons interested are permitted to appear before a committee having charge of the measure and present their views for or against the measure. The committee is not required to report the names or number of persons who have appeared before it. When a committee has decided upon a report, the chairman designates some member of the committee to prepare a written report. It is then submitted to the committee for their approval, and if it is approved by a majority it stands as their report. The first report is usually a report from a sub-committee, and its report is submitted to the full committee for consideration. The deliberation of the full committee is then reported to the house. The house now disposes of the measure as

AN IRRIGATION DAM, ARIZONA

it deems appropriate. It is the practice of the house that all bills, petitions, memorials, or resolutions reported from a committee shall be in writing and then printed. The action of a committee is not always unanimous. A minority may dissent from the opinion of the majority, and as a minority of a committee can not make a report, it has been the practice for the minority to append their views to the majority report in order to have any standing in the house. The majority report is not signed, but stands as the action of the committee. The dissenting views of the minority may be expressed collectively or singly.

All business before committees of both houses at the end of one session must be resumed at the commencement of the next session of the same congress, as if no adjournment had occurred.

Committee of the Whole. This committee is larger and more comprehensive than all the other committees. It is the whole house acting as a committee presided over by a chairman instead of the Speaker. The purpose of this committee is to receive and revise matters reported from the different standing committees, by giving prominence to bills for raising taxes and general appropriations. In committee of the whole greater opportunity is afforded for discussion of measures than could be otherwise accomplished under the ordinary rules of parliamentary practice. When on motion the house resolves itself into a committee of the whole, the Speaker appoints a chairman to preside, and he vacates the chair. The house by vote determines what the order of business shall be in committee of the whole. Should this order not be decided by the house, the business on the calendar may be taken up in regular order.

SUGGESTIVE QUESTIONS

What does the United States include? Repeat the preamble to the constitution. How many departments of government does the constitution provide for? How are heads of the President's Cabinet provided for? How are congressmen elected? How are United States senators chosen? What are the qualifications of a senator? Who is the presiding officer of the senate? What salary does he receive? What salary does the Speaker of the house receive?

If a bill originates in the house and passes that body by the necessary majority after the third reading, how may it become a law? Suppose it fails in the senate, or it is amended there, what is the next step? When does a bill reach the President for his signature? How often is a bill called up in the house before it is put on its passage? What does this mean? Must all bills originate in the house? What is meant by a "conference" between the two houses? Who gives a congressman his certificate of election? Did you ever see one?

Is the United States senate ever unorganized? How often is the house of representatives organized? What is understood by the adjournment of congress? Why is it necessary to have many committees in both houses of congress? How is the senate called to order? The house of representatives? When does the Speaker not call the house to order? What is meant by a quorum? A majority? What is meant by a committee at work? What is the report of a committee? If a member of congress wants to speak when he gets up, what does he say in order to be recognized? Why is there a necessity for a committee of the whole?

Can any member introduce a resolution, a bill, a petition, or a memorial? What is done with it when first introduced? Does he read it or have it read? What do you understand by the first, second and third reading of a bill? Before a bill that originates in either house can be sent to the President for his signature, what must have been agreed to? What duties does a chaplain of the senate or house perform? Does he have the right of debate?

CHAPTER VIII

THE EXECUTIVE DEPARTMENT

Power Vested in a President. The constitution says: "The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice-President chosen for the same term be elected. The President and Vice-President are elected by electors appointed by each state in the following manner: Each political party meets in each state in a convention during the earlier part of the year that a President is to be elected, and appoints delegates to a national convention of its party, called by its national committee. The delegates from all the states assemble in a national convention later in the year, and nominate candidates for President and Vice-President. A party platform is adopted setting forth the principles of the party. These party platforms are never taken very seriously by intelligent voters who are accustomed to look beneath their vote-catching qualities. The President and Vice-President are voted for indirectly on the day of the Presidential election throughout the United States. Each state is entitled to as many presidential electors as the state has United States senators and congressmen. The presidential electors receiving the highest number of votes are entitled to cast the vote of the state for President and Vice-President. If one of the presidential candidates receives a majority of all the electoral votes cast throughout the United States, he is elected President; otherwise,

the house of representatives elects the President and the senate elects the Vice-President.

The Popular Vote. The total vote cast indirectly for President and Vice-President is called the *popular vote,* while the vote cast directly for them by the electoral college is the *electoral vote.* Occasionally it has happened that a candidate has been elected President without receiving a majority of all the votes cast, but he had a majority of the electoral votes. The presidential election is held on the first Tuesday after the first Monday in November of the "Presidential year." He takes his oath of office on the fourth of March following his election.

The President-elect receives no certificate or notice of election. He simply takes notice himself, and goes to Washington a few days in advance of his inauguration. He calls upon the President, and the latter returns the call within the hour. On the 4th of March, the President-elect is escorted by a committee having the matter in charge, to the executive mansion, where he joins the President, and entering his carriage, is driven with him to the capitol. The President and the President-elect walk out of the capitol arm-in-arm and stand on a platform erected on the east front of the capitol, where in the presence of a great concourse of people the oath of office is administered to him by the Chief Justice of the Supreme Court. It is as follows: "I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect, and defend the constitution of the United States." At the conclusion of this oath, the President kisses an open page of the Bible. He then takes his inaugural address from the breast pocket of his coat and reads it. This address is hardly a state paper, and yet it may be such in foreshadowing the policy of the incom-

ing administration. When the ceremony is concluded, the President and ex-President take their places in the carriage, and are driven to the executive mansion where the wife of the President joins him. They are now received by the wife of the ex-President, or by the lady who occupies her place. The ex-President now, withdraws, and the President goes to the receiving stand on the avenue in front of the executive mansion. Here he stands for several hours as if reviewing the procession as it passes. In inclement weather this is a dreary enough performance.

In case of the death of the President, the oath of office is administered to the Vice-President without the usual formalities, and he enters upon the duties of his office at once. If congress is in session, he takes the oath of office in joint session at an hour specified for that purpose.

Duties of the President. It is the chief duty of the President to see that the laws which congress has passed shall be faithfully executed. In the strictest sense, an executive is one who executes or does certain things, or who sees that they are done. No laws are self-executory. The thing to be executed or enforced is a law as it is, and not the whim or caprice of the one who is to carry the law into effect. It is a physical impossibility for the President to attend to all the infringements of the laws that may occur in connection with the various kinds of business that the government carries on. By virtue of his office, the President is commander in chief of the army and navy of the United States, and of the militia of the several states, when called into actual service of the United States. Under the same clause of the constitution, he may require the opinion in writing of the principal officer in each of the executive departments, upon

any subject relating to the duties of his respective department. But to understand clearly the authority invested in the President of the United States the pupil is referred to Article II., Constitution of the United States of America.

Presidential Advisers. To aid him in his official duties, the administration of the business is conducted through executive departments. The departments are nine in number, as follows, in the order of their organization: The Department of State, July 27, 1789; the Department of the Treasury, Sept. 2, 1789; the Department of War, Aug. 7, 1789; the Postoffice Department since 1829, although dating back to colonial times; the Navy Department, April 30, 1798; the Interior Department, Mar. 3, 1849; the Department of Justice, June 22, 1870; but there has been an attorney-general since 1789. The Department of Agriculture, Feb. 9, 1889; the department of Commerce and Labor, Feb. 14, 1903. The heads of the departments are selected by the President, and they constitute his cabinet. They are spoken of as *secretaries,*— as the Secretary of State, the Secretary of the Treasury, and so forth. Cabinet meetings are held at the executive mansion twice each week, at which meetings measures and policies are outlined and discussed relating to public and international questions. These meetings are for the purpose of comparing opinions, but after all, the President may set aside the views held by a majority of his cabinet and act upon his own judgment. This contingency is not likely to arise, although it is not an uncommon thing for clear-thinking and earnest men to draw opposite conclusions from the same statement of facts. Yet the President is solely responsible for the policy represented by him during his administration. Each secretary has charge of that part of the public

business assigned to him by law. In important matters pertaining to his department each consults with the President. The President knows, or is supposed to know, every important thing that is going on in each department; but routine matters proceed without the knowledge or the interference of the President. Only questions of far-reaching influence are usually discussed by the President and his cabinet at their meetings, but any secretary that is desirous of having the opinion of the other members of the cabinet upon any question pertaining to his department, may present the matter for discussion. The general plan, however, is for the President and the secretary of the department to confer and to decide upon a line of action. The discussions between the President and the members of his cabinet are those among equals, and the decision, however arrived at, receives the hearty approval of all, unless the differences are unreconcilable. In general, it is an agreement reached by concessions. But if a cabinet officer cannot agree with views held by the President, then the cabinet officer should hand his resignation to the President.

Department of State. The head of the President's cabinet is the secretary of state, and corresponds to the department of foreign affairs in other countries. He is the mouthpiece of the President in communicating the wishes of the President to other governments and to the governors of the states of the United States. He keeps the seal of the United States, and he affixes it to all documents signed by the President. He conducts all correspondence with foreign ministers of other countries and with the ministers and consuls of the United States stationed in foreign countries. All treaties, negotiations, and other foreign affairs are conducted through his office. He advises our ministers and consuls in other countries

as to the policy of the home government, and they keep him informed as to the temper of the people among whom they reside, in reference to this country. The secretary of state ought to be as tactful, resourceful, and pleasant a man, well informed on all the broader and profounder questions of international statesmanship, as a political party has in its ranks.

The work of the department is so extensive that it is distributed into several bureaus.

Department of the Treasury. This department is for home duties exclusively. It has to do with the entire financial system of the country. The treasurer is a business man of profound financial sagacity, or one who knows how to manage the business affairs of a great nation. His power is felt throughout the entire financial system of the United States. He devises and submits plans for raising the revenue, collects it and disburses it under law. All accounts in all the departments must be examined and verified. All this work, too, is conducted through the auditors, comptrollers, treasurer, register, commissioner of customs, commissioner of internal revenue, comptroller of the currency, chief of the bureau of statistics, and director of the mint. The bureau of engraving and printing prints notes, bonds, postage stamps, etc.

To give some idea of the extent of the work carried on in the Treasury Department, a force of more than twenty thousand persons is employed. The Treasury Department may very properly be regarded as a great banking institution run on business principles.

Beset With Callers. The President and the cabinet officers are frequently so interrupted by callers that public business is seriously interfered with and often actually delayed. From the fragments of time snatched between

calls and other interruptions, the cabinet officer has to study over, and work out the various problems of his office as they come to him from day to day. His duties are numerous and exacting, and if he conducts the business of his department successfully, he is entitled to great credit.

Office Seekers. At the time of the inauguration of a President and the formation of his cabinet, Washington is crowded with a great army of office seekers who have flocked there to receive appointments. They want positions in the departments or in the foreign service, and they bring all the influence they can command to accomplish the result. There are appointments, chiefly of a clerical nature, that the heads of departments are authorized to make. Persistent applicants frequently implore the President to use his influence in their behalf. He always declines to do so. Under the extension of the civil service rules, the number of appointive positions becomes less each year. There are enough vacancies of different kinds each year to occupy a large part of the President's time.

Frequently the appointment of a postmaster in a city or a town may divide the citizens into two or more hostile factions in the same party, and the dissension may be carried to Washington for settlement. In such cases the President or the head of the department is forced to consult various persons in regard to the local situation, with reference to the political effect the appointment will have on solidifying the party. The position to be filled may be of such a character that the President consults the congressman of that district, if the congressman and the President agree politically. If the President does not consult the congressman, both being of the same political party, there is trouble. In such

congressional districts as are represented by congressmen holding opposite political opinions, the President consults with the senators, or with influential citizens. The senators of the same political faith frequently make up lists of men whom they urge the President to appoint. Unless there be serious reasons to the contrary, the President appoints such applicants. This is a delicate and sometimes a very troublesome question. The President may find the applicant recommended by a senator to be unfit for the position, and since every appointment has to be confirmed by the senate, out of senatorial courtesy, the senate may refuse to confirm the person nominated by the President, because the senator objects to the nomination made by the President. Some senators claim the right to select and to consent.

Appointments Are Usually Good. While this practice has grown into a custom, nevertheless, it is evident that the senate's authority does extend to the character and the fitness of the applicant for the position he aspires to fill. If a candidate is very objectionable, the fact is likely to be brought out before the appointment is made. It must be admitted, all things considered, that the President usually makes good appointments, and especially is this true where all the citizens of a city or a town, irrespective of political affiliations, join in a petition imploring the President to appoint a certain person to a certain office.

There are so many more applicants for positions than there are places to be filled, that naturally a great many are disappointed, and they become soured, and seek relief in abusing the President. The "outs" become hostile. The only offset the President has is the satisfaction of his conscience in that he has preserved the efficiency of the public service. The President in the discharge of his

duties needs the support of both houses of congress, and however much he may try to make his administration a satisfactory one to the whole people, if either, or both houses of congress is hostile, he can accomplish little beyond seeing that the laws are faithfully executed.

A Host of Appointees. The number of federal office-holders amounts to 411,322. Of this number the President appoints, by and with the advice and consent of the senate, only 9,846. There are under civil service rules 262,608, of which the postoffice department has 147,727. The treasury department has 27,093; the war department, exclusive of officers and enlisted men of the army, 28,102; the department of justice, 5,700; the department of agriculture, 12,519; the department of the interior, 14,262; the department of commerce and labor, 14,797; the government printing office, 3,925; the interstate commerce commission, 614; and the Smithsonian Institution, 424. The President has 993 appointments which do not require the consent of the senate, and 846 of them are in the department of justice.

CHAPTER IX

CHECKS AND BALANCES

Passing Laws. Thus far two departments of our government have been sketched, the legislative and the executive. For a bill to become a law it has to be introduced, referred, pass through the first and second readings, as they are called, and then put upon its passage in the house or senate where it originates. The language of the constitution is: "Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not, he shall return it with his objections to that house in which it shall have originated, which shall enter the objections at large on its journal, and proceed to reconsider it. If after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall be presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law."

President Must Approve. Every order, resolution, or vote to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

Purpose of the Veto. The veto power of the President of the United States is to prevent hasty and inconsiderate action on the part of congress, but if both houses shall pass a bill by the necessary majority over the President's veto, it is more than probable that the temper of the people would sustain the action of congress. In summing up this matter, Judge Story says: "All the checks, which human ingenuity has been able to devise, or at least, which, with reference to our habits, our institutions, and our diversities of local interests, seem practicable, to give perfect operation to the machinery, to adjust its movements, to prevent its eccentricities, and to balance its forces; all these have been introduced, with singular skill, ingenuity, and wisdom, into the arrangement."

Revenue. To the house of representatives belongs the power to originate bills for meeting the expenses of the national government Section VIII, paragraph 1, reads as follows: "All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills." From this it is evident that a bill for raising revenue must first originate in the house, but it may be so amended in the senate as to constitute it a new bill.

To determine the amount of revenue necessary to meet all the expenditures of the government, the secretary of the treasury collects information from all the other departments, the several amounts of money that will be needed in each department, and these, with what his department requires, are compiled in a book of estimates which is printed and distributed at the beginning of each regular session. These estimates form the basis for the appropriations. The revenue bills in the house are managed by the committee on ways and means, and in the senate by the finance committee. While the committees are guided somewhat by the recommendations made by the secretary of the treasury, yet the actual appropriations are usually much below the estimates. When the appropriations fall too far below current expenses, a deficiency bill the next session is passed to supply the deficit.

Scope of Congressional Legislation. The congress of the United States can legislate on all subjects pertaining to the welfare of the people except on such matters as are prohibited. The constitution enumerates under Article I, Section VIII, seventeen different things congress has power to do; under Section IX, the same Article, seven things congress is prohibited from doing; and under Section X. three different things a state can not do.

The following summaries will make this clearer. Congress has power

1. *To levy and collect taxes.*
2. *To borrow money on the credit of the United States.*
3. *To regulate commerce.*
4. *To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcy in the United States.*

5. *To coin money and regulate the value thereof.*
6. *To provide for the punishment of counterfeiting the securities and coin of the United States.*
7. *To establish post-offices and post-roads.*
8. *To promote the progress of science and the useful arts.*
9. *To constitute tribunals inferior to the supreme court.*
10. *To define and punish piracies and felonies on the high seas.*
11. *To declare war.*
12. *To raise and support armies.*
13. *To provide and maintain a navy.*
14. *To provide for calling forth the militia.*
15. *To provide for organizing, arming and disciplining the militia when in the service of the United States.*
16. *To exercise exclusive legislation over the District of Columbia.*
17. *To make all the laws necessary for carrying into execution the foregoing powers.*

Things Congress May Do

1. *Congress may determine the time of choosing the electors for President and Vice-President of the United States.*
2. *Congress may, by law, provide for the case of removal, death, resignation, or inability of both the President and Vice-President, declaring what officer shall then act as President.*

Remark. Since the President and Vice-President are both liable to die during the term for which they are elected, under the old law the president *pro tempore* of

the senate and the speaker of the house would succeed them if the offices should become vacant. In 1886 a law was passed which provides that in case of the death or disability of the President and Vice-President, the law of succession shall be as follows: *Secretary of State, Secretary of the Treasury, Secretary of War, Attorney General, Post Master General, Secretary of the Navy, Secretary of the Interior.* This scheme of succession is based upon the hypothesis that the secretary would be most likely to carry out the policy of the President; whereas, the Speaker of the house might be of the opposite political party and not in harmony with the views of the administration.

3. *Congress may, by law, vest the appointment of such inferior officers as they think proper, in the President, in the courts of law, or in the heads of departments.*
4. *Congress shall have power to declare the punishment of treason.*
5. *Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved.*
6. *New states may be admitted by congress into this Union. No new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.*
7. *Congress shall have power to dispose of, and to make all needful rules and regulations respecting the*

"AM I MY BROTHER'S KEEPER?"

territory or other property belonging to the United States.

8. *Congress has power to enforce, by appropriate legislation, all provisions of the constitution, and, under the general welfare clause, such implied powers as are not directly expressed in the constitution.*

Things Congress May Not Do.

1. *Congress cannot suspend the privilege of the writ of habeas corpus unless, in case of rebellion or invasion, the public safety may require it.*
2. *No bill of attainder or ex post facto law shall be passed by congress.*
3. *No tax or duty shall be laid on articles exported from any state.*
4. *No money shall be drawn from the treasury but in consequence of appropriations by law.*
5. *No title of nobility shall be granted by the United States, and no person holding any office of profit or trust under them shall, without the assent of congress, accept of any present, emolument, office, or title of any kind whatsoever, from any king, prince, or foreign state.*
6. *Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the government for a redress of grievances.*
7. *The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned.*

Some Things a State Cannot Do.

1. *No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.*
2. *No state shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress.*
3. *No state shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.*

SUGGESTIVE QUESTIONS

1. Explain how a President is elected.
   (a) What are the qualifications of a President?
   (b) Enumerate five duties he performs.
   (c) What is understood by the veto power?
   (d) How many electoral votes has the state in which you live?
2. Name the executive departments and define the chief duties of each.
3. Why does the President select the members of his cabinet from members of his party?
4. How was the postmaster of your postoffice appointed? Why do

congressmen and senators want to have something to say about the appointments in their district and state?

5. How is a law passed that the President signs, and how may one be passed that he vetoes?
6. Name six things Congress may do. One thing congress is prohibited from doing.
7. Name two things a state can not do, and give a reason for your answers.

CHAPTER X

THE JUDICIARY

The Judicial Power. Article III, Section 1, Constitution of the United States is as follows:—"The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office."

An Independent Department. At the time of the framing of the Constitution of the United States, the sentiment was strong in the convention that the judiciary ought to be an independent co-ordinate department of the national government, and this view has been held ever since by the clearest-headed statesmen. Unless there be an independent judiciary, as as essential element of government, to protect the property and the civil and religious liberties of all the people, neither life nor property can be deemed to be secure. In an orderly and right-minded community each can regard himself as secure in all his rights as a citizen, but unfortunately such communities are exceptions to the general rule. Differences of various kinds arise, and resort is had to courts of law. The Supreme and inferior courts are higher tribunals than the state courts, and their establishment is for the purpose of determining differences, passing judgments, and issuing mandates which must be enforced.

No Appeal from the Supreme Court. The government that enacts laws must have its own courts to interpret its laws whenever they are brought into controversy, and to test them by the constitution or by the laws made in pursuance thereof. The constitution is the supreme law and the Supreme Court is the highest court in this country. Every law enacted by congress, every state constitution, and every state law, may be tested as to its validity when properly brought before the Supreme Court of the United States. Its decisions are final. But the Supreme Court never passes upon a statute, or a case, till it is brought regularly before it. There are obvious reasons for this. If the state courts should assume to decide upon the constitutionality of those higher issues, the conflicts of opinions would be innumerable, and introduce confusion to such an extent as would unhinge the stability of our government. A state court would hardly be a competent tribunal to sit in judgment when its own laws would be in conflict with the constitution or laws of the United States, while it would be entirely competent to decide whether an enactment of their state legislature was in conflict with their state constitution.

The United States courts are divided as follows, beginning at the top:

One Supreme Court, which holds all its sessions in Washington, nine circuit courts of appeals, nine circuit courts, eighty-three district courts, and the court of claims.

The Organization of These Courts. The Supreme Court consists of nine men, one designated as the chief justice and eight associate justices. These are appointed by the President and confirmed by the senate. They are appointed for life, as are all the federal judges of the inferior courts. They can be removed when impeached for mis-

behavior, by the house, and found guilty by a two-thirds vote of the senate. The Supreme Court holds its session in the Supreme Court room in the Capitol at Washington, beginning in October, and six judges, at least, are present before a decision is announced. When a case is tried before the Supreme Court, the judges talk it over, and one is assigned by the chief justice to write the decision. The opinion is now read in the presence of all the others, and if they agree to it, it is accepted and becomes the decision. Should there be a difference, as frequently happens, a dissenting opinion is rendered also.

Court of Appeals. Each justice of the Supreme Court is assigned to a particular circuit in which he must hold court once in every two years. In addition, he may have to serve in the circuit court of appeals. This court was created in 1891 to relieve the Supreme Court docket of its appellate business. All appealed cases from the district or circuit courts, not taken to the Supreme Court, are tried in the appellate court. In some cases the decisions are final, but in others, by an appeal or writ of error, the decision may be carried to the Supreme Court for final adjudication.

Circuit Courts. There are nine circuits to which two, three or four judges are appointed, and they may hold court separately or together. The number of circuits corresponds to the number of justices of the Supreme Court, and one of the judges is assigned to each circuit. A circuit judge, a district judge or a justice of the Supreme Court may hold court, each sitting alone, or together, as may be convenient. When the supreme judge is present he presides; but a district judge holds circuit court only within his own district.

Court of Claims. This court was created in 1855 for the purpose of determining the amount of money due

persons who had claims, or believed they had legitimate claims against the Government of the United States. This court is composed of six judges who hold sessions in Washington. Since the United States cannot be sued, persons having claims against the national government present them to this court. This court inquires into each claim and reports its finding to congress. Any award for the claimant is passed upon by congress. This court is a sort of judicial commission or board of arbitration. It also exercises a civil and a criminal jurisdiction over the District of Columbia.

Remark. There are three inferior courts which need not be discussed in this connection: (a) territorial courts; (b) court of private land claims arising out of treaties made with Mexico in 1848 and 1853; (c) consular courts.

Salaries of Judges. The chief justice receives $13,000 per annum, and each associate justice $12,000 per annum; circuit judge of the appellate court $7,000 per annum; circuit judge $7,000 per annum; district judge $6,000 per annum; judge of the court of claims $6,000 per annum.

The judges of the United States courts have been and are now, with few exceptions, men of high legal ability and of excellent personal worth. Ex-President Benjamin Harrison said: "The judicial department is the 'keystone' of our government, and assaults upon it threaten the whole structure of the stately arch."

SUGGESTIVE QUESTIONS

Who are the Judges of the Supreme Court at this time? How many judges of the District Court are there? What is meant by a judicial circuit court? Can you name the persons who have been the Chief Justices of the Supreme Court? What is meant by appealing a case from a District or Circuit Court to the Supreme Court? How are judges of the United States courts appointed? How are they confirmed? If a person robs a postoffice, in what

court would he be tried, if caught? If a man steals your watch, in what court will he be tried, if captured? When is a law declared to be unconstitutional? How is a claim against the National Government disposed of? If a Federal Judge decides to retire at the age of seventy years, will he still receive his salary?

CHAPTER XI

RIGHTS AND DUTIES OF CITIZENS

Individual Rights. So far we have learned in a general way something concerning the different kinds of government under which the people of our country live, but this knowledge, as valuable as it is, does not treat, except incidentally, of the rights and duties of the citizens themselves. In organized society men have to deal with one another. Our statute laws deal with the overt acts of men, while moral law takes cognizance of their motives. It has been very justly said that courts of law are not always courts of conscience. The law herein spoken of is municipal law which prescribes certain rules regulating responsible conduct. These laws relate to the protection of our persons, to the protection of our property, and to the protection of our reputation. The entire power of our nation acting through legislative enactments, decisions of our courts and their legal executive officers, is ready to enforce the laws as they stand on the statute books.

Natural Rights. The object of municipal law is to protect each one in the enjoyment of his rights and to punish any invasion of these rights. Rights are *absolute* and *relative*. An absolute right belongs to an individual in a single unconnected state, and a relative right is one that arises from civil and domestic relations of man in society. Absolute rights are sometimes called natural rights, and are usually spoken of as the right to live; the right to liberty; the right to form the family relation; the

right to acquire, to hold and to transfer property; the right to make contracts. Legal rights are such rights as can be enforced by legal means, that is, by actions at law or equity by the courts.

Importance of Natural Rights. If we take a closer survey of the natural rights of a citizen, that of personal security is the most important of all the rights including the right to life, of all one's powers of mind and body and the right to use them in lawful labor,—the right to preserve one's health, reputation, the freedom of speech, religious belief and worship, and to move from place to place. These rights, to a free citizen, can only terminate with his death. The right to life implies the right to preserve it, and this implies also that of self-defense. Each one is entitled to the preservation and the enjoyment of good health, and the state is fully justified in enacting and enforcing laws to protect the health of all its citizens. The right to one's reputation is protected by the laws on libel, slander, and malicious prosecution. The right to acquire, hold and transfer property is the right of dominion, ownership and possession of property. This right consists in the use, the enjoyment and the disposal of any property that one may have without interference from another. Religious freedom in this country consists of the right to worship God in any manner, or not to worship at all, as one sees fit, so long as he does not commit an act against society which may be declared a crime, or an offense against decency.

PROPERTY RIGHTS

What Is Property? Property may be defined as that which is one's own. It includes real and personal property as well as mixed property. Real property consists of such things as are permanent and fixed and immovable;

as, lands, tenements, and hereditaments of all kinds, which are not annexed to the person, nor can be moved from place to place. Real property is usually understood as consisting of land and structures permanently affixed to the land.

Personal Property Defined. Personal property includes all movable chattels and things that may attend the person of the owner wherever he goes; as, goods, money, jewelry, the tools of the mechanic, the library of the lawyer or the physician, etc. There is an intermediate class of property denominated *mixed* property which partakes of the nature of both real and personal property, such as heirlooms, pews in a church, etc.

TITLE TO REAL PROPERTY

From Whom Title Is Acquired. One of the most interesting historical facts is that of showing how and from what sources titles to land in this country have been derived, and how they may be transferred legally from one person to another. Our laws are derived chiefly from the Roman common law and from the English law. Under the English law the sovereign was the original proprietor of all the land in the kingdom, and in the United States all lands that were once public lands, or are now public lands, when first sold or to be sold, the title is from the government. In all the newer states the title is traced back to the government as the source of highest authority.

The different laws enacted by congress describe with great particularity the manner in which portions of the public domain may be acquired by settlers and their titles thereto perfected. But back of all this is a deeper question as to how nations acquired land. There are three recognized modes: By discovery, by conquest, and by treaty or purchase. The first civilized nations held

that savages or barbarous peoples had no legal right to the soil where they live when discovered by civilized nations. None of the European nations ever recognized that the natives living in either North America or South America had any right to the land upon which they lived. It is true that in the early settlement of the American continent, Spain, Portugal, France, England and Holland tacitly agreed that discovery and occupancy gave title to the first comers against other Europeans and the Indians.

Differently Stated. To put this in a smoother way: "The absolute title of the Indians yielded to the military, intellectual and moral power of the white men. It is true that the Indians were allowed to occupy the land, but they could not dispose of it except to the government within whose boundaries it was situated. Little by little the Indians were forced back, till now the most of them are on reservations as wards of the nation. They are now, for the most part, on 'mere patches of ground' in various parts of the country. To an impartial observer it appears that our government 'has played the role of a cruel step-father' in its treatment of the Indians."

After the close of the revolution, the states that claimed certain territory relinquished their title by ceding their public lands to the national government. As has been already mentioned, the public domain was opened to settlers on certain prescribed conditions, and when each settler complied with the stipulation made by the government he received his patent or deed from the government, which cannot be disputed.

Confusion of Title in Early Days. Prior to 1785 there was no regular system of "land surveying" in the United States. Each tract was surveyed generally after a settlement had been made upon it. The settlements were made in the woods, along streams, and the settler would

"blaze out" on the trees with an axe, or a hatchet, as much land as he wanted, and after having a rude survey made describing his tract, he would have the survey or description put on record at the state land office. Another settler might, in blazing out his tract, overlap a former survey, and it sometimes occurred that several persons would claim a part of the same tract. These rude attempts at surveying were patterned after the surveys in the older colonies. Not only were pieces of land covered by patents of various shapes and sizes, but worse still, there was no end to the lawsuits that sprang out of these conflicting claims.

Need of a More Definite System. In order to avoid confusion in the newer settlements of the northwest territory, congress passed the land-ordinance of 1785, based upon the suggestions made by Thomas Jefferson, which resulted in our simple and excellent system of rectangular surveying, described in most common school arithmetics. The plan in brief is this: The public lands are divided into townships as nearly six miles square as can be made, and each township is divided into thirty-six sections, each one mile square, and a section is then divided into quarter sections by half mile lines, and the quarter-sections are subdivided by the county surveyors into four subdivisions, or tracts of 40 acres each.

No one could purchase land from the government prior to its being surveyed. Before 1820, the minimum price of public land to purchasers was $2.00 an acre. Later the price was reduced to $1.25, and at this price much of the land in Indiana, Illinois, Missouri and Iowa, was purchased from the government. The government made grants to several states and some of this land was sold by the states at much less than the government price.

Patent and Deed Distinguished. The document that

conveys a tract of land from the government to a person is called a *patent*, but the instrument that shows that real property is transferred from a seller to a buyer is called a *deed*.

When the government sells land to an individual it retains no further right to it except that of *eminent domain*, which is the power to compel an owner to give up his land for the public use, but not without compensation therefor, whenever the public good requires it. With this exception, the person to whom land was first disposed of by the government acquires an absolute and unconditional title to it, and he may dispose of it in any manner he pleases, and if he makes no disposition of it at his death, it descends to his lawful heirs. His heirs acquire all the right to the land that the original owner had, and so on to the next akin according to the law of descent. A title to land that is not clogged by any conditions or limitations as to the time it is to be enjoyed, is called a *fee simple*, because it is of a simple and unlimited character.

Highest Form of Title. A title in *fee simple* is the most unlimited right to real property that can possibly be given to a private individual. By no operation of law can it ever go back to the government, unless it is taken for public use. This does not preclude the division of a piece of real estate into parts and held by different persons, but into however many different parts it may be divided. The title still remains unclouded to the unsold portion, and if the parts cut out are transferred absolutely the title in *fee simple* has passed to the new purchasers. The owner of an estate may dispose of it conditionally, and the purchaser then has less rights than in fee simple. Such a purchaser would then have what in law is called a qualified or restricted title. An owner might also transmit his estate with such restrictions that it could only descend to

some particular heirs. An estate thus restrained is called a conditional fee. From this custom originated the system of entailment, much used in England for the purpose of preventing the landed property from being divided into smaller tracts.

Other Estates. Of estates less than freehold, there are said to be three kinds or varieties: namely, *estates for years, at will,* and *by sufferance.*

An estate for years is created when the possession is granted to one for a certain definite period. Every estate which must expire at a certain period, is an estate for years. This estate is always created by the acts of the parties thereto. Such estates are created by lease, and the parties to it are designated as landlord and tenant.

An estate at will is when one person lets lands or tenements to another to be held during the pleasure or the will of the former. In estates of this kind, if the tenant does not himself determine the lease, he is entitled to the growing crops when the lessor ends the estate and turns him out, because the tenant did not know beforehand that he would be put out, and could make no provision for it.

An estate at sufferance is when one comes lawfully into the possession of land, but keeps possession of it afterwards without having any right to it. This estate may be destroyed or terminated whenever the owner takes possession and turns the occupant out. For unlawful possession a penalty is awarded in some states against the tenant, but the tenant cannot be treated as a trespasser, because he entered upon and took possession in a lawful manner.

Deeds and Mortgages. The form and formalities necessary to give validity to a deed or mortgage depend chiefly upon the statutes of the state in which the property is sit-

uated. The parties to the contract, especially the grantors, must be capable under law of making such a contract. All warranty deeds, quitclaim deeds, bonds and mortgages, immediately after their execution and delivery, should be filed for record. To entitle such instruments to be recorded, they must be acknowledged and certified to before some officer duly authorized to take such acknowledgment. After the instrument has been recorded, the purchaser of the land ought to call for the original deed and take it home and keep it safely. The purchaser should always be sure that the deed he receives describes *exactly* the tract of land that he buys.

PERSONAL PROPERTY

Definition Restated. Personal property has been already defined, but it may be stated again as embracing all objects and rights which are capable of ownership, except real estate or some interest therein. Those things which are personal property are technically called *chattels,* a legal term signifying goods. The name adopted to distinguish this species of property was chosen to signify their movable character, or the capability of being moved or carried about with the owner's person.

How Acquired. There are various ways in which title to personal property may be acquired. Some of these will be enumerated: 1. By occupancy, as when one finds or takes possession of an article that has no owner, or that has been abandoned, or when one captures a wild animal, or a fish. 2. By increase or accession, as when one owns animals which have young. The increase belongs to the owner the same as the grown animals which he owns. 3. By confusion or mixture, as where one mixes grain with grain of the same kind that belongs to another so that it cannot be distinguished and sep-

CITY AND COUNTY BUILDING, SALT LAKE

arated. 4. By a gift, which means to transfer gratuitously without an equivalent. Title is transferred by gift whenever an owner of an article gives it to another without consideration. 5. By a written transfer describing the property and to whom it is transferred. 6. By sale by the owner or his authorized agent, with or without delivery or possession. 7. By succession or descent from one who dies intestate. 8. By bequest contained in a will. 9. By the operation of law or judgment, as where one is sued and judgment is rendered against the defendant and the judgment is collected and paid to the plaintiff.

A Further Distinction. A further classification of personal property is sometimes made, as when it is said to be either in *possession* or in *action*. It is in possession when it is in the actual occupancy of the owner; and it is in action when the owner has merely the right to have the thing in question but not in his possession, but he may obtain it by an action at law. A thing so recoverable is called a *chose in action*. Thus, a debt due, or money payable by note or bond, is *a chose in action,* for it is not in the possession of the person to whom it is due, but he has the right to bring a suit to recover it, provided it be not paid.

The Primitive Mode. Title by occupancy is the taking possession of those things which before belonged to nobody. This no doubt was the original or primitive mode of acquiring a right or title to property. Whatever movables are found on the land or in the seas or water courses, and are not claimed by any other owner, or have been thrown away and abandoned by the last proprietor, may be appropriated by the first finder. But the accidental loss of any article does not deprive the owner of his right to his property, and he may reclaim

it of the finder, if he does so within a reasonable time. It is on the same principle that one may forfeit his rights by an omission to assert them within a definite period. Thus, if a road or a street be established across an individual's land, and it continues to be used as such and worked and improved by public authority for a great number of years, his neglect to inclose it or to make objections, will be regarded as sufficient proof that he had dedicated it to the public for its use.

The benefits of light, air and water may sometimes be appropriated by occupancy. Thus, if I have a house and another person builds a factory which by giving off poisonous vapors, or by other means destroys the salubrity of the air, or other elements necessary to the enjoyment of my property, I may require him to desist from maintaining a nuisance which is a menace to public health. But if he had built the factory first, and I build my house near him, the nuisance is of my own seeking and I cannot require him to abate it. Frequently within cities and other densely populated districts certain kinds of trades are prohibited within prescribed limits, on the ground that the public welfare demands the sacrifice of individual interests. So, if a stream be unoccupied, I may erect a mill and detain the water, but not so as to injure a neighbor's prior mill. By occupancy he is entitled to as much of the water as he requires for his use to run his mill.

The Acquisition of Property by Descent. In all civilized countries, if a man dies possessed of real or personal property, or of both, without having made any disposition of it during his life,— that is, dying intestate,— it descends from him at the instant of his death to those persons who by the particular laws or customs of the country in which he lives, are entitled to succeed to his

rights. A person thus dying without making a will is called an intestate, or having died intestate, and one who makes and leaves a will is called a testator. Descent, or hereditary succession, is the title whereby a person on the death of his ancestor, acquires his estate by the right of accession as a lawful heir. An heir is one who inherits an estate immediately upon the death of an ancestor. An estate so descending to an heir is called an inheritance. The laws regulating the descent of such inheritances, and designating the persons who are entitled to be regarded as the heirs at law of the deceased, are founded chiefly on the relationship of consanguinity, or blood relationship, of persons having sprung from a common origin from the same ancestor, and who are said to share of his blood.

Kinds of Relationship. This kinship, or consanguinity as it is legally spoken of, is either lineal or collateral. Lineal consanguinity is that which subsists between persons, one of whom has descended in a direct line from the other. This line may be descending or ascending. If one's father and grandfather are both living, or dead, they are related to that one in the ascending line, but his own children and grandchildren are related to him in the descending line. Collateral consanguinity exists in persons descended from the same common ancestors, but not descended from one another. Thus, cousins are related to one another by collateral consanguinity, though not descended from one another; they are descended from a common ancestor, and each has some of that ancestor's blood in his or her veins. The degrees of lineal consanguinity are reckoned by generations, every generation forming one degree, counting either upward or downward. Thus, the father is related to the son in the first degree, and the son to the father in the first degree—the grandfather and the

grandson in the second degree, and the great-grandfather and great-grandson in the third degree. The degrees in the female line are precisely the same as in the male line.

To ascertain the degrees in collateral consanguinity, the law begins with a common ancestor and reckons downward. Thus, two brothers or brother and sister, are of the first degree; an uncle and nephew or niece of the second degree, and so on.

The number of ancestors which any one may have within no very great number of degrees is very large. Beginning with one now living and running backward one is astonished and bewildered with the number of ancestors extending backward only a few generations. In the division of an estate, it is a matter of very great importance to know definitely how many degrees one may be removed from the deceased person. Generally all the issue of a deceased person inherit equally without regard to sex.

WILLS

Must Conform to Law. A will is the legal declaration of a man's intentions which he wishes carried out after his death. In all the states and territories there are statutes regulating wills and prescribing the mode in which they must be executed and attested. A will is usually required to be in writing, if there is any writing material present. It must be signed by the maker in the presence of one or more subscribing witnesses. The same strictness in the use of words having a technical legal meaning, is not so necessary as in other instruments as, for instance, in a deed or mortgage. The intention of the testator should be clearly stated, and if possible a competent person should write the will. It is

reasonable to suppose that when a testator makes a will that he reduces his thoughts to writing in a solemn manner, which is the best evidence of his intentions. No will is of any effect till the testator dies, because he may change, annul or revoke any will made by him prior to his death. In extreme cases in which sickness and death may come suddenly upon persons in situations in which writing material cannot be had, or writing made, one may make a verbal will, but such wills are subject to statutory regulation. They are not regarded with much favor.

When no Will Is Made. Since real and personal property may be transferred by the owner to whomsoever he pleases by will or testament, yet if he makes no disposition of it, at the time of his death, it descends to his heirs. But in either case it is necessary for the settlement of his estate, the payment of his debts, and the equitable distribution of the remaining effects, that some one person, or more than one person, shall be appointed to execute these purposes. Frequently the testator names such person or persons in his will. These persons are called executors. But if no such appointment be made by the testator, such a person may be appointed by the court or by an officer designated by the statutory laws of the particular state, and such persons are then called *administrators.*

An executor or administrator is usually required to give a bond with approved security, in amount greater than any sum of money that may come into his hands at any one time. His first duty after giving bond and taking the necessary oath, is to make out a complete statement of all property of whatsoever kind that belongs to the estate, and of the debts which the estate owes. This statement is usually filed within a certain time. If

the estate owes more than it is worth, it is said to be insolvent. The debts against an estate are classified according to statutory law.

Property in Different States. If one dies owning property in two or more different states, there must be an administrator appointed for each state, unless one files a copy of his certificate or letters of administration in the proper court of the state wherein such property is found, and have the same approved by or confirmed according to law. The usual method is, however, to have an administrator appointed in each state. Each one ought to read the statute of his own state on *wills*.

SUGGESTIVE QUESTIONS

Mention the absolute rights. What are legal rights? What do you understand by a person? By property rights? When does one have a title to property? In the state in which you live, from what source was the title to the land on which the school house stands, derived? What is the difference between a patent and a deed? Define an estate at will. Write a deed to forty acres of land. Write a quitclaim deed. Describe a forty-acre tract of land in the township where you live.

Mention four ways that title to property may be secured. What becomes of the property of a man after he dies? Explain the difference between lineal consanguinity and collateral consanguinity. What is an heir? An inheritance? An estate? How are the degrees of lineal consanguinity reckoned? What is a will? How is it usually made? What kind of a person ought to be appointed administrator? Give two reasons for your answer. If a man dies leaving an estate of $30,000.00 and debts against it of $12,360.00, and there are three heirs to share equally after the debts are paid, what would be the share of each?

CHAPTER XII

AGREEMENTS AND CONTRACTS

Contracts Defined. The law of contracts is of the very widest application among men in all countries of the world. A *contract* may be defined as an agreement legally made and enforceable at law between two or more persons, to do or not to do a particular thing. There can never be a contract unless two or more persons come to an agreement upon some point in common. By an agreement, is meant a mutual understanding or consent to do or not to do the thing to be done or left undone. The contracting parties must be legally qualified to make a contract. They must be persons such as the law considers of sufficient age and discretion to be parties to a contract.

Necessary Conditions. The legal conditions required to make a contract binding are:

1. Parties must be legally qualified to contract.
2. There must be an offer and an acceptance.
3. There must be a sufficient consideration.
4. The subject of the contract must be legal.
5. In most cases it must be in writing, and under seal. That is, signed by the parties thereto.

In a sense, a contract may be regarded as the parties making a law themselves which they bind themselves to do, or to refrain from doing, some particular thing. Each binds himself to an agreement, and if he does not abide by it, to suffer damages to the extent of his non-compliance.

Parties to a Contract. Bishop says: "As one cannot sue himself, or consequently, enter into any obligation enforceable by law with himself, there must be two or more parties to every contract."

Of Sound Mind. A minor, a fool, an insane person cannot make a contract. A person to be bound by a contract to which he is a party must be of such maturity of mind as to know definitely and clearly why he gives his assent thereto. In short, he is supposed to know the value of things that lie clearly within his knowledge and experience. He must be of such age as the laws of the state fix for the transaction of such business. Minors may begin earlier in life, than the majority of persons, to do for themselves, but these are exceptions to the general rule.

By legal disability is meant incapacity to do a legal act, and it may relate to power to contract or to sue, or arise from want of sufficient understanding, as in cases of lunacy or infancy; or from want of freedom of will, as in cases of coverture and duress, or from policy of the law, as in cases of an alien, age, outlawry and the like.

Who May Not Make Contracts. In law the following persons cannot make contracts, namely, insane persons, habitual drunkards who have lost control of their mental faculties, infants, persons under duress, and alien enemies during war. Formerly married women were incapacitated from making contracts, but that law has been materially modified, or else repealed, in many states.

A Mutual Agreement. All valid contracts consist of mutual stipulations in that something is agreed to be done by both parties, but neither one can call upon the other to perform his part of the agreement, unless he has performed or agreed to perform his own part. Thus,

if A agrees to sell B a horse to be delivered at a certain time and place, and B should be there at the appointed time with the money, and A is there but does not bring the horse to be delivered to B, then A cannot compel B to pay him the money. On the other hand should he deliver or offer to deliver the horse to B, and B declined to pay the sum agreed upon, A is not under any obligation to deliver the horse to B. Where one of the parties to a contract has performed in good faith all that he agreed to do, and the other has failed or refused to perform any material part of his agreement, the party who has complied with his agreement, may use his choice by compelling the defaulting party to fulfil his part, or he may rescind it and treat it as forfeited. A contract broken by one of the parties may be regarded as a contract broken by the other. When a part of a contract is thus rescinded because one of the parties refused or neglected to perform his part of the agreement, the whole contract is abrogated, and the parties are placed in the same position as they were before the contract was made.

An Imaginary Case. Suppose I have paid the seller of a horse a part of the price, and he chooses to annul the contract because I fail to pay the remainder upon his offer to deliver the horse, he must pay back to me the money that I had previously paid to him. Likewise if a carpenter fails to complete my house according to the terms of the agreement, and I move into it, because I derive some benefit from it and cannot give him back his labor or material if he finished it, I must pay him what his labor is worth, and also the value of the material under the circumstances; but I may deduct from the payment such damage as I have sustained because of his failure to complete his part of the contract.

What Constitutes Execution. When two or more per-

sons agree to perform mutual acts, such as one to sell certain goods or chattels to the other, and that other to pay a price agreed upon, and the goods or chattels are delivered and the money paid, the contract is said to be *executed;* but a contract to do a thing in the future where immediate performance is not expected is *executory.* The difference between an executed contract and executory contract, is that nothing more needs to be done when the contract is executed; but if one fails, the consideration becomes a matter of vital importance. The performance may be enforced or damages given to the injured party for the loss he has sustained. This depends upon the principle that a sufficient consideration must enter into every contract, and it must be adequate.

Two Kinds of Consideration. There are two kinds of consideration, each of which may be sufficient, owing to circumstances. The first kind is a *valuable* consideration and is one arising from the payment of money or evidences of money, an exchange of valuable property, the performance of labor or other valuable service, or such other benefits as the law regards as a just equivalent or exchange of value for the thing to be done, or agreed to be done, by the other party. It is not necessary that both parties should receive at the time, the thing actually contracted for. It is sufficient that one parts with the thing sold, and the other agrees to the transfer for a certain sum of money to be paid at a future date. One may forbear to do a certain act or acts which are entirely legitimate whereby he might have made a profit, and the loss of such profit is a valuable consideration and will enable such a one to enforce the payment of the sum agreed upon.

The other kind of a consideration is a *good* consideration, such as are founded on motives of generosity, benev-

olence, natural affection, or blood relationship. Thus, a man may give away his property, provided he keeps enough to pay all the debts he owes. It is a legal maxim that one must be just before he is generous. A promise to give one a valuable present or to pay money for past favors, has no legal significance and is not binding. A moral obligation supported by a former legal obligation, is binding if supported by a promise to that effect. Fraud vitiates a contract, and all fraudulent transactions are null and void. The thing done or to be done by virtue of a contract must be lawful, that is, something which the law does not prohibit. Whatever the law prohibits is void, and cannot be enforced. Should A agree to commit a crime, such as murder or robbery, and enter into a contract with B to perpetrate such an act, the contract could not be enforced. It is on this principle that gambling debts are not recoverable by law where gambling is prohibited by law. Neither can a contract be enforced when one of the parties has agreed to do an impossible thing, nor will an agreement based upon an immoral consideration be enforceable.

An Illustration. In a case like this: A sells B a horse for a specific sum of money, and the horse is dead at the time he is sold; A cannot enforce the agreement, unless B had agreed to buy a dead horse.

If a contract be based on two or more conditions, and one condition is legal and the other condition is illegal, the legal part can be enforced, and the illegal part is invalid, if the legal and illegal parts can be separated.

What Is Fraud? It was stated that fraud vitiates a contract. Fraud in a legal sense, is a false representation of facts, made with the intention of having it believed and acted upon by the party who is to be defrauded. If a drunken man enters into a contract when

he is so drunk that he does not know what he is doing, he may, when he becomes sober, disavow or affirm the contract, and in that case it becomes valid. An infant, a drunken man, or a lunatic may make a valid contract for necessaries.

If the parties are able to make a contract, and the essential elements are involved, to wit, a sufficient consideration and mutual consent between the contracting parties, they are capable of contracting, if they comply with the forms prescribed by law; this agreement may be either verbal or written. In general, it is better to reduce it to writing which can be produced in case of dispute. There are some kinds of contracts that must be in writing, or they will be void.

The Statute of Frauds. During the reign of Charles II, in 1676, the English Parliament enacted a law known as the Statute of Frauds, from its having been passed to prevent frauds and perjuries in upholding and misrepresenting fictitious contracts. Prior to the enactment, most contracts and agreements could be proved by oral testimony. For obvious reasons such evidence is open to great abuse, and it is not reliable unless when all the facts are fresh in the witness' mind. Even honest witnesses may differ widely as to facts and circumstances after a lapse of years. Things fade more or less from the most tenacious memories. The object in passing such a statute was that important contracts should be reduced to writing. For this reason legal writers for substantial reasons have regarded this as the most important statute relating to civil matters ever enacted in England and re-enacted in this country, applicable to our local necessities. The general features of all the statutes of the different states agree in the main points that such contracts must be in writing or they are of no validity. The

statute does not alter the validity of a contract, but it does require that the signature of the party to be charged with the performance of any future act, shall be attached thereto to afford more certain and reliable evidence of the agreement entered into between the parties.

SUGGESTIVE QUESTIONS

What are the essential elements in a contract? What do you understand by an agreement? When is an agreement expressed? When is it implied? Give examples. Why can one not make a contract with himself? What must either party do before he calls upon the other to fulfill a contract? Give an example. Define an oral or verbal contract. What do the words oral and verbal mean? What persons are regarded in law as infants? When is a contract voidable? What does voidable mean and how does it legally differ from the word void? Can a married woman, in your state, conduct a business in her own name, and can she bind herself legally for the payment of debts she contracts? What is meant by legal disability? Can two children under age, each owning a horse, trade horses, should they decide to do so? Give reasons for your answer. When is a contract completed? If two boys trade knives, is that a contract such as will stand in law? Give two reasons for your answers. What is pleading the "Infant Act"?

CHAPTER XIII

CONTRACTS FOR THE SALE OR EXCHANGE OF PERSONAL PROPERTY

Sale, Exchange, Trade. Sale or exchange is a changing of property from one person to another, literally it is an exchange of ownership. If it be a transfer of one article for another it is said to be a "trade" or barter, but if it be a transfer for money, it is a sale. When one man sells goods or chattels to another he is the *vendor* and the purchaser is the *vendee.* The rightful owner of goods may sell them to whomsoever he pleases, at any time and for any price, unless there be a judgment against him for some debt or damages and a writ of execution be delivered to the sheriff or some other officer. A sale under such conditions is fraudulent, and the goods are liable to be seized wherever they may be found to satisfy the execution.

When Is Delivery Complete? As soon as a contract is made and its terms agreed upon, the title to the thing sold passes from the seller to the buyer. The seller has performed his part of the contract, and should the thing be destroyed or lost, it is at the buyer's risk, though by agreement the parties may change the conditions by fixing a different method of payment, or postponing the delivery. But if credit is given, the title may vest in the purchaser without delivery. Should the purchaser become insolvent after the purchase and before the thing purchased comes into his possession, the seller may reclaim the thing, and thus annul the sale. Of course if the

sale is made and the purchase price is paid, the contract then is executed. The difference is whether it be one of credit or cash sale.

The statute of frauds interposes some checks upon hasty and loose agreements for the sale of goods on credit. If it is not convenient to make a delivery at once, the sale may be made binding by paying a certain part of the purchase price, or by signing an agreement to pay at a future date. Should the seller deliver a part of the goods and the buyer accepts them, this will bind both parties.

So, if a man sells goods as his own and he has no title, a warranty is implied by the common law that his right is good, and if it turns out that he has no title, the purchaser consequently can acquire no title, but he may demand damages of the former for the loss sustained. But in general the seller of goods is not responsible for the quality of the goods he sells, unless he expressly warrants them to be as he represents them. Should it appear that he wilfully misrepresented or falsified so that the purchaser was deceived, the misrepresentation being material, then it is fraud, and the purchaser has a legal right to recover damages.

A Case in Point. Again, if I engage a tailor to make me a suit of clothes, there is an implied contract that having taken my measure, he will make the suit out of the material selected and that it will fit, but should it not fit, it is useless and I can not be forced to take it. He knew the purpose for which it was ordered, and he has not complied with his part of the contract. When goods are sold by sample, it is expected that the whole will come up to the specimens exhibited, that they are equal in quantity and quality to the specimens shown and upon which the purchase was made. While it is probable that the seller believed that his representations were true as

to the quality of the remainder of the goods that he had not seen, but that he had sold by sample, yet as he had made such assertions as to their quality, and the goods were so situated that the purchaser could not examine them, this would be a species of fraud practiced upon him, if such a misrepresentation should prove to be deceitful. This should not be understood to be active or intentional misrepresentation, on the contrary, it would be ignorance through lack of knowledge. Of course the seller is supposed to know the facts. His recourse, however, would be on the manufacturer of the goods who had put his samples on exhibition and represented them as being on a par with the goods packed or boxed. The law allows an owner considerable latitude in praising his goods, or whatever kind of property he has for sale, provided the buyer has an opportunity to examine it beforehand and to decide upon its value.

CONTRACTS FOR THE SALE OF REAL PROPERTY

What it Embraces. Real property has already been defined, but it is referred to in this connection as such things as are fixed, permanent, immovable, as land and whatever grows out of the land or adheres to it. Buildings erected on land, unless a reservation to the contrary be made, and growing crops, are reckoned as realty. The most important contracts that can be made are those pertaining to the transfer of real estate, and the law has to be strictly complied with to prevent clouded or imperfect titles. Such contracts are governed by the same general rules to which other contracts are subject, but in order to render rights secure to those that purchase, and to prevent future litigation, transfers must be proved by a higher kind of evidence than can be established by hear-

REPAIRING A LEVEE ON THE MISSISSIPPI RIVER

say or oral testimony. The property transferred must be minutely and accurately described by metes and bounds. To show the full import of this statement some explanation is necessary.

History of Our Present System. A former reference was made to the irregular tracts of land surveyed in the original colonies. See page 107. "The rectangular system of survey" which was reported by a committee to congress, was adopted May 7, 1784. This committee consisted of Thomas Jefferson, chairman, Messrs. Williamson, Howell, Gerry and Reas. Their report required the public lands to be divided into "hundreds" of ten geographical miles square, and these again subdivided into lots of one mile square each, to be numbered from 1 to 100, beginning at the northwest corner, counting from west to east and from east to west, continuously. This report was considered, debated and amended, and on the 3rd day of May, 1785, on motion of Mr. Grayson of Virginia, seconded by Mr. Monroe, the size of the township was reduced to six miles square. It was further discussed until the 20th of May, 1785, when it became a law. The system as adopted offered the land for sale in sections of 640 acres; in 1800, a half section of 320 acres could be purchased. In 1820, a law was enacted which authorized the government to sell a quarter section of 160 acres; in 1832, a further subdivision was made, so that 40 acre tracts could be sold to purchasers.

Preliminary to surveying the public lands of the United States, surveying districts were established, in which one or more initial points are located at an intersection of meridians and base lines, from which to begin the surveys.

In surveying the public lands are laid off in bodies of land 24 miles square, as nearly as may be. This is done

by the extension of standard lines from the principal meridian every 24 miles, and by the extension, from the base and standard lines, of auxiliary meridians every 24 miles. Thereafter these tracts are divided into bodies of land six miles square, called townships, containing 23,040 acres, approximately. The townships are divided into sections containing 640 acres, more or less. Any number or series of contiguous townships situated north or south of each other constitute *a range*. Ranges number north or south from the base line, and townships number east or west from the principal meridian.

Description of Land. There are three reasons why the description of a piece of real estate should be accurately given. All deeds, bonds for deeds, and mortgages, to be of any value must be recorded, or ought to be filed for record, as soon as the transfer of property is agreed to. In the second place when one pays the state, county or city tax on a piece of real estate, he ought to know that the description in the tax receipt agrees exactly with the description in the deed. It is difficult to have money refunded for the wrong payment of taxes. The one who pays a real estate tax ought to look at the tax receipt then and there for the purpose of detecting a mistake, should one be made.

Usefulness of An Abstract. Finally, one should keep an abstract of title to each piece of real estate that he owns. An abstract consists of short extracts of conveyances and shows the character of each legal paper affecting the title, whether it be an absolute or conditional conveyance; also the acknowledgements and records of each with their dates; the names and residence of all parties with each conveyance. The property set forth should be accurately and minutely described, and any irregularity or omission noted. The records should be

examined for deeds, orders, or decrees of courts, wills, titles by descent, and encumbrances of any kind such as mortgages, judgments, dowers, taxes, liens, leases, rents. In abstracting the title to lands, the title to public lands in the states formed since the close of the Revolutionary War, need not be traced back of the patent issued by the government. In a perfect title, the transfer from each party should be a warranty deed, or its equivalent, and all encumbrances satisfied.

The Legal Description of a Deed. In describing a tract of land to which the title is traced back to a patent from the government, the following is necessary for a legal description: the section, or fractional part, as designated by government on original patent, adding, more or less, fractional part, or lot number, block and addition, if in a city or town, whenever it occurs in the original patent; next, the number of the township and range, the name or number of the surveying meridian, and the number of acres. Land grants, military tracts, and irregular shaped pieces should be deeded by metes and bounds, that is, give the length and the bearing of the sides, to which should be added the number of acres and the original name or number. Deeds for town or city lots should show size of lot, number of lot, and block and name of the original town, or addition to the city or town, with name of county and state added.

A Deed. A deed in law is a formal written expression of something done by the party or parties from whom it proceeds, containing a contract of agreement which has been delivered by the party and accepted by the purchaser. The person making the conveyance is usually called the *grantor,* and the person to whom it is made the *grantee.* A deed must be signed, sealed and delivered.

BILLS OF EXCHANGE

Are Instruments of Convenience. In the transaction of business, bills of exchange, promissory notes and checks are frequently used for the more convenient transfer of money from one to another, and especially for the remittance of money from one country or section of country to another. A bill of exchange is an unconditional written order or request by one person to another for the payment of a definite sum of money at a specified time. Bills of exchange are usually spoken of as two kinds, foreign and domestic. Domestic bills are called drafts. The party who draws a bill or draft is the *drawer;* the party upon whom it is drawn is the *drawee;* and the party in whose favor it is drawn is the *payee.*

Bills of exchange were originally invented by merchants and traders to avoid sending money from one country to another for the payment of debts. It is customary for the payee to present a time draft to the drawee before it becomes due, in order to ascertain whether the draft or bill has been drawn by one authorized to draw, and if the drawee will pay the money according to the order. If he so agrees, the drawee writes the word "accepted" on the face of the bill, and signs his name underneath. After he has done this he is called the acceptor. Such bills pass from one to another like money, and one bill may serve to pay several debts before it finally gets back to the bank where it was issued.

Protest Necessary. If a foreign bill is dishonored by non-acceptance or non-payment by the drawee, the holder should at once have it protested in order that the drawer may be held liable for payment. Notice of protest in writing must be promptly transmitted to the drawers and indorsers, if any, in order to fix their liability to the

holder. Such notice is necessary; otherwise the drawer and indorsers are discharged from liability.

Foreign bills of exchange are drawn in triplicate in order to hasten their transmission and to insure their receipt by the payee. They are not sent in the same mail. The three bills are called technically a set, and in law they constitute one instrument, each is so worded that it mentions the other two. Upon the payment of one bill, the other two are void. The drawee, however, should accept but one bill, and only one should be endorsed.

The practical method of getting a bill of exchange or a draft, is for one to go to a bank and pay the cashier the price of the bill of exchange or draft, and it is made out for the sum desired on a bank in the foreign country or state, signed by the proper bank official and then given to the purchaser, who forwards it by mail to its destination. The bank will forward the other two, if the destination be a foreign country.

PROMISSORY NOTES

Definition and Parties. A promissory note is a contract, and a brief one, containing an unconditional promise to pay to another's order, or the bearer, a specific sum of money on or before a certain date. When the note contains the words "or order" or "bearer," the meaning is to pay whoever holds the note at the time it falls due. Of course the value of a promissory note as a circulating medium of credit depends upon its being negotiable, and that it will be accepted in lieu of money because the maker of the note is financially responsible. In assigning a note the person assigning it is called the *assignor* or *endorser*, and the person to whom it is assigned the *assignee* or *endorsee*. If the assignment is made by the assignor simply writing his name on the back of the note, it is called an

assignment in *blank*. It may be transferred from one person to another without further endorsement. But the mere act of endorsing binds each one to pay the note, provided the maker should refuse to pay it when it becomes due. However, each endorsement must be made by a person legally qualified to make a contract.

As to the kinds of bills, notes and checks that are negotiable, it is necessary to look to the statute law of each state. They vary materially, but as a general rule if two or more persons agree to become endorsers or sureties for the drawer or drawee for a bill of exchange, or for the maker of a note, to enable the latter to borrow money, or to extend his credit, and one of the sureties is obliged to pay it, he may demand from the other or others their proportionate share so that the loss may be equally divided.

CHECKS

Defined and Explained. A check is an order on a bank to pay the holder a definite sum of money at the bank to a third person, on demand. It is drawn on funds on deposit in the bank. No grace is allowed, and it is not due till it is presented for payment. A check should be presented for payment within a reasonable time, taking into view all the circumstances of the case. It is better to present a check for payment as soon as possible. If the money on deposit in the bank be drawn or checked out, the bank can refuse to cash or accept the check, because of lack of funds. Banks furnish "check books" to their depositors in order to facilitate business. Banks constantly pay checks drawn on other banks by crediting them to their own depositors. The accounts between the banks of a city are adjusted through what is technically called the "Clearing House." A clearing house is a place

where the representatives of the banks meet each day, and each bank that belongs to the association settles its debits and credits with all the other banks. The object of a clearing house association is to effect at one time and place the daily exchanges between the banks which are members of the association, and the payment of the balances resulting from such exchanges. Some banks that do not belong to the association have an agreement to clear through banks which do belong. Much of the business of the entire country is carried on by means of checks.

CONTRACTS OF BAILMENT

Meaning and Application. The term Bailment is derived from the French language, *bailler*, a word signifying to deliver. In a legal sense it is a delivery of goods in trust, upon a contract, expressed or implied, that the trust will be faithfully performed on the part of the bailee. The bailee is the one who receives the thing, and the bailor is the one who delivers the thing. When one delivers goods to another, on a contract, and the one to whom they are delivered shall use them in a particular manner, or for a particular purpose, it is implied that he shall return them to the owner when that purpose is accomplished. Should cloth be delivered to a tailor to make a coat, it is implied that the tailor will return the coat to the owner when it is made. So if a watch is pawned for the payment of a sum of money, the watch should be returned to the owner when the pledgor has performed his part of the contract where the money is paid. If goods be delivered to a commission merchant to be sold for the owner on commission, the merchant is bound to pay to the owner the price received after deducting expenses and commission charges.

Likewise, if goods be delivered to a person or a corporation who makes a business of conveying goods from one place to another as freight, and who is called a *common carrier*, whatever his conveyance may be, the law raises an implied contract on his part that he will deliver the freight in good condition at the place or to the person designated. There is also an implied contract giving the carrier the right to keep such possession against any other person than the rightful owner, or his agent or legal adviser.

Common Carriers. The subject of *common carriers* is one of the most diversified in connection with the civil law. The contracts relate to persons and things. Railways, steamships, steamboats and all other agencies for transporting persons and things from one place to another for hire, are common carriers. A common carrier is responsible for all loss or damage that happens to goods in transit unless caused by an accident or by a public enemy. A common carrier must exercise more than due diligence for the safety of persons or things in carrying them to their destination. By a public enemy is understood an organized military force for making war upon the country to which the carrier belongs, or by pirates on the high seas. Mobs, strikers, rioters, and other disorderly or evil-disposed persons, are not regarded as enemies in the sense used above. In case of war, the common carrier will be responsible if he take needless risk when a longer route is one of safety. A common carrier has the right to make reasonable rules regulating the conduct and the risk of its passengers; but such carriers are not insurers of their passengers. Should a passenger with notice of these rules put himself in a dangerous place and injury results to him on account of his

wilful or heedless misconduct, he has no cause of action, nor is a carrier responsible for loss sustained on account of the fault of the shipper of goods.

The degree of negligence a common carrier must use to avoid such responsibility varies in different cases, and in order to give as much certainty as possible to the rules applicable to different cases, neglect, or omission to exercise due foresight, has been divided into three kinds, namely: *Slight neglect,* which is the omission of that diligence which prudent persons use in securing their own goods and chattels. *Ordinary neglect* is the omission of that care that every man of prudence and intelligence takes of his own affairs; and *gross neglect* is the absence of that care which every man of common sense, however inattentive, takes of his own property.

A Fruitful Source of Litigation. Many interesting and intricate legal questions have arisen in regard to the liabilities of common carriers where there are successive companies of common carriers over a continuous route of travel, and each is an independent company, as shipping by railroads or express companies. Some states make the receiving company liable, and in case of loss or damage it collects from the company that lost the goods. To a certain extent the common carrier, when he accepts the goods, insures the safe delivery of them, and he is bound to comply with such reasonable and suitable instruction as the owner may give relating to their destination and delivery. One notices frequently such directions as: "This side up!" "Handle with care!" or "To be kept dry!" and these instructions must be strictly followed. It should be observed that a private carrier is not under the same restrictions and liabilities as a common carrier. Common carriers can not refuse to take goods and trans-

port them, unless there be valid reasons for refusal, and there are cases, some of which have been previously noticed, when the common carrier is not liable. For instance, the public authority may seize the goods and dispose of them in some other manner. The goods offered to be shipped may be of such a nature that they are too dangerous to handle; or again, the goods may be perishable, such as fruits, vegetables, or liquids that would evaporate or ferment; or it might be a case of hauling vicious live stock. There may also be a difference owing to shipping live stock, or inanimate property. All of these are questions, and there are many others, which modify the general law relating to common carriers. As much, however, as can be done in this connection, is to call attention briefly to some phases of this subject in its most general bearings.

Hotel Keepers. A hotel keeper, or an inn keeper, is one who keeps a public house and agrees to take care of and entertain guests and furnish them with food and lodging, or lodging, for compensation. Whether the hotel be conducted on the American or European plan, it is held to be a hotel. A hotel keeper is bound to receive all orderly persons and treat them alike, unless all his rooms are taken. When he receives a guest, that includes his baggage or luggage also, and the hotel keeper is responsible for it, too. In most hotels there are printed notices in each room informing the guest what he must, or must not, do to be insured against loss. If the guest does not comply with the rules of the hotel and he suffers loss, it is his own fault. Should a guest depart from a hotel and leave his baggage without paying his bill, the hotel keeper can retain the baggage till the bill is paid. These are matters that are governed now exclusively by state laws.

SUGGESTIVE QUESTIONS

Describe accurately the tract of land on which the school house stands. Why should an assessor know the description of each tract of land that he assesses for taxes? What is meant by taking the acknowledgment of a deed? What are the parties to a deed called? How are the sections in a township numbered? What is the difference between a general warranty and a special warranty? Give four or more conditions necessary to make a legal deed. What is meant by a deed's being signed, sealed and delivered? What fee is charged for recording a deed? When is the fee due?

Explain briefly the difference between a draft, a promissory note, and a check. When do notes bear interest? What is the legal rate where you live? Define usury. What is a protest in a commercial sense? If A agrees to sell his farm at one-half its value, and there is no fraud in connection with the sale, and B agrees to take it, is the contract binding? Why? A promises B that he will make B his assistant if B will sign A's bond as city assessor, provided A is elected. Is the contract binding? Can ante-election promises be enforced? What constitutes due diligence in the collection of a note when it becomes due? Write a check on a bank for the payment of ten dollars.

Describe how you would deposit eight dollars in money and a twelve-dollar check in the bank where you live.

Tell the difference between a common carrier and a private carrier. What kind of a carrier is the one who hauls passengers from a depot to a hotel, or from the hotel to a depot? Is a trolley car a common carrier? Give two reasons for your answer. What is a bailment? Give three examples. How may a bailee become responsible for the loss of property? Define each species of neglect.

If A has a pasture to rent for the use of stock, and B puts in a horse for a certain price, and the horse dies while in the pasture, is A responsible to B for the price of the horse? Is a hotel keeper liable for the acts of his "hired help"?

Is a railroad conductor justified in refusing to let a drunken man ride on his train? How many pounds of baggage is a passenger allowed on one ticket?

CHAPTER XIV

OTHER CONTRACTS

There are many other different kinds of contracts such as the relation of husband and wife, contracts by and with infants, and by and with persons standing in the relation of parent and child, master and apprentice, and principal and agent; contracts of partnership, insurance contracts, etc.

Marriage

Is a Civil Contract. Marriage, by the common law as well as by statutory provisions, is considered a civil contract, but of a more sacred and solemn nature than ordinary contracts. In order to give greater solemnity to the marriage ceremony, it is customary to have a minister of the gospel perform the ceremony. If two persons of legal age enter into a valid agreement to marry, and either one afterwards refuses to perform the agreement, he or she will be answerable to the other in damages for the refusal, provided the other seeks redress in court. All grown persons are able to contract a marriage, unless they labor under some legal disability. As to the age qualifications the laws are more lax in regard to marriage than in ordinary contracts. The French marriage laws are much more stringent than are such laws in this country. In relation to each other after marriage it is the duty of the husband to protect his wife, and to provide for her according to his means and station in life, and it is the wife's duty to love, to honor and to help her

husband make a living. Under the common law the husband was given much more authority over his wife and her property than is authorized at present under statutory law. Before marriage, contracts may be made that will be valid and binding after marriage. Of recent years legislative enactments have greatly enlarged the powers and liabilities of married women, so that now in many of the states they are almost as free as their husbands in transacting their own business. The wife may own property in her own name and dispose of it as she deems proper.

The student is advised to read the statutes of his own state in order to understand clearly what powers, duties and liabilities married women have conferred on them.

Contracts with Infants, and with Persons Standing in the Relation of Parent and Child, and Principal and Agent

A Fuller Discussion. In a former chapter some comments were made on these subjects, and they are taken up in this connection in order to give a fuller discussion than was there possible. By general consent the age of twenty-one years has been fixed upon for males and females to become of full age in this country, and it is completed on the day preceding the anniversary of their twenty-first birthday. Until that day they are legally called *infants.*

Infants are responsible for some acts, and they are capable of making some contracts that will be binding on them, but they labor also under various disabilities which are designed as benefits to them, and to prevent them from being imposed upon by persons who might be inclined to take advantage of their inexperience and immature understanding. An infant can not be sued except under the protection and with his guardian who defends

him in court and from other attacks. But an infant may institute suit in the name of his guardian, or of some other person, who is then called his next friend, or if the guardian should combine with others, or should himself attempt to defraud the infant, the latter can ask the court to appoint another guardian in order to protect his rights.

Responsibility in Criminal Cases. In criminal cases, an infant is responsible long before he arrives at the legal age, and he is held responsible for unlawful acts. As between a guardian and his ward in case one injures the other, they stand in precisely the same relation as outside parties, except where the guardian has the custody of the ward's body, he then stands in the place of a parent, and he has a larger right to restrain and correct his ward. But the guardian has no legal claim to the services of his ward, unless the relation of master and servant exists.

As to contracts with infants while they are not absolutely void, but merely voidable, if he so chooses after he becomes of age he may ratify such a contract. If he affirms the contract upon reaching his majority, the contract is binding on him. It is the intention of the statutes of the different states to protect the rights of minors, and every safeguard is thrown about them for that purpose.

Parent and Child

While an infant remains with his parents and is supported by them, or by either of them, the infant is not liable to a third person, even for necessaries; nor can the parent be held responsible for necessaries furnished to said minor, unless they be furnished under a special contract, or under circumstances from which a contract would be implied. Should the parent let his child live

with another, there is an implied contract that the child will thus be furnished, and the parent is responsible.

In case of a separation of the parents, sometimes the custody of the child is given to the father, and at other times to the mother. This is generally left to the discretion of the court when a legal conflict arises between the husband and wife for the possession of the children.

The parents are in duty bound to feed, clothe, take care of the health, and to educate their child, and the child should obey and assist his parents till he reaches his majority. The parents may correct their child in moderation, but the legal relation between the parent and child ceases when the child is twenty-one.

A parent is not liable for wrongs done or crimes committed by his child, unless he ordered the child to do the wrongful act, nor is the child liable for wrongs done by its parents.

The parent may delegate a part of his authority to those under whom the child may be temporarily placed, as to a tutor or a teacher, and the latter has such authority intrusted to him as is necessary for the purpose intended.

Master and Servant

The relation of master and servant has an extended meaning, and may exist between any two persons capable of making a contract. The master acquires legal control over his servant, or agent. Originally it applied particularly to apprentices who were bound for a term of years to another to learn or to be taught some trade or vocation. By an extension of meaning it applies to every form of work in which one person's work is subject to the control and supervision of another to whom he is responsible. But in the narrower sense, before apprenticeships were practically abolished in this country by

changed economic and industrial conditions, it was common for a boy to be bound out to a master to learn a trade, and under such conditions the apprentice was to be instructed in the art of the trade. Obligations and duties were mutual between the master and his apprentice. The master was bound to furnish his apprentice with necessary food, clothing and shelter, and some education, and at the end of the apprenticeship to pay him a stipulated sum of money, or its equivalent. The master must also protect and defend his apprentice, and admonish him when necessary, but not to abuse him immoderately. The apprentice was treated usually as a member of the family. The apprentice was expected at all times to work for his master's interests and to be faithful and diligent in the performance of all his duties. Usually an apprentice is a minor, but an adult may enter into such an agreement. The master may use physical force to protect or defend his apprentice, the same as in defense of his own child, and conversely, the apprentice may use physical force to defend or protect his master. For minors these contracts are made by their parents or guardian, with the minor's consent. For minors the conditions are now chiefly regulated by statutory laws.

Principal and Agent. Closely allied to the law relating to master and servant is that of *principal* and *agent,* which will now receive some attention. Much of the world's business is conducted through agents. An agency is a term signifying an understanding or an agreement, expressed or implied, whereby one person or firm is authorized to act in the place of another in the transaction of some kind of business. The general rule in law is this, that if one can legally transact business, he may employ another to transact business of certain kinds in his absence. The contract between the principal and his

SEEKING A NEW HOME

agent is in the nature of a trust in which the principal confides to his agent certain things which he may do. Large business enterprises and corporations must necessarily have a large force of agents to conduct the various branches of their activities. A great corporation may have thousands of such employed. These agents may be engaged in widely different kinds of work. A broad classification, however, divides agents into two classes, *general* and *special*. A general agent is one employed by another to act generally in any particular trade, business or occupation. He is supposed by the public to act within the scope of his authority, and that he knows by the terms and conditions of his contract what he may legally do. It is reasonable to suppose that the agent acts within the scope of his authority which he is not presumed to overstep. When clearly acting within the scope of his authority, his acts, though he may overstep the expressed conditions of his agreement, will bind his principal. Just how far an agent can bind his principal depends upon what authority has been granted to him. The prudent agent will act clearly within the scope of his authority. A safe rule is for an agent to follow his instructions closely, and if in doubt, telegraph for additional authority.

Special Agents. A special agent is a person who is authorized to do for another a single act, or some particular transaction only. It is the duty of the person dealing with such an agent to ascertain the extent of his authority. The principal will not be bound by any act of his special agent not expressly authorized or fairly inferred from his contract or commission. Should the special agent go beyond his authority and it be affirmed by his principal, then the principal is bound by the act of his agent. Any contract ratified by the principal binds him, notwithstanding the agent had no authority, either

expressed or implied, in the first place. In general, whatever an agent is permitted to do in the ordinary course of business, is taken as a command from his principal to do it, provided it be lawful. The principal must disown the act of his agent as soon as his acts come to his knowledge, or by his aequiescence he makes the act his own.

How Agencies Are Terminated. An agency may be terminated in three ways: 1. By revoking the power of the agent by the principal; 2. By renouncing the acts of the agent when he exceeds his authority; 3. By the operation of law, or the expiration of the contract.

Contracts of Partnership

Who Are Partners? A partnership is a contract formed by two or more persons to place their money, effects, labor and skill in business for the purpose of sharing the profits and losses in certain proportions. This relationship may be created by an agreement in writing or by the verbal agreement of the parties proposing to form the partnership. However, to avoid misunderstanding and perhaps future litigation, it is the wiser policy to reduce such agreement to writing and to have it properly attested. The right to participate in the profits and the liability to contribute to the losses of the business, however unequal the shares may be, constitutes the essence of the partnership. Each partner is the general agent for all the others, and may bind them by any contract that he makes which lies within the scope of their agreement. A member may when entering into a partnership stipulate that, as between himself and his copartners, he shall not be liable for losses to the firm. Though a participation in the profits and losses may render one liable as a partner to a stranger or to third parties, yet such participation does not create a partnership between the parties, if the facts

show there was no intention on their part that it should have such an effect. As between the copartners themselves they may limit the powers and fix the duties and responsibility of each member, and any violation of this agreement resulting in loss to the other partners makes the wrong-doer liable in damages to his copartners. Thus, if a member of a dry goods firm should engage in speculation in grain, or in any other business not connected with their legitimate partnership agreement, it will not bind his copartners, because such matters lie outside of the real scope of their business. If a person lets another have a certain sum of money to be employed in a trade, upon an agreement that the profits shall be equally divided between them, this would not be regarded as a partnership, but as in the nature of a loan of money, although a creditor might have the right to regain it as a partnership from an enforcement of the claim arising from the business transacted. While a participation in the profits and losses is regarded as the criterion of a partnership when the rights of a third person are involved, it will not be so considered where one agrees to accept a portion of the profits as a compensation for his services, and has no other interest in the business.

A Silent Partner. A silent or dormant partner is a member of the firm, but whose name is not publicly known as one of the firm. But such a person is equally liable for all the contracts made by the firm, when discovered, with those who are known as partners. When a member of a firm retires from the firm and wishes to be released from future liability for debts of the firm, he must give actual notice of the fact to the public by printing the same in some newspaper of general circulation in the locality where the business is carried on, and by sending special notice to the creditors and customers of the

firm. Should one represent himself as a partner of a firm, and persons are induced to deal with the firm on the faith of his representations, he is held liable to such persons for the firm's debts, though he was in no wise connected with the firm.

A Nominal Partner. A nominal partner is one who has no actual interest in the profits or losses, and is not a partner, but allows his name to be used as one of the firm. Such person is, however, liable as a partner to third persons, on all transactions in which credit is given to the firm on the faith of his being a partner. This is intended to prevent frauds to which creditors might be exposed, were parties allowed with impunity to afford business firms the means of assuming an appearance of responsibility to which they are in nowise entitled.

The Principle Illustrated. If two men dealing in buying and selling horses should agree never to warrant any horse, and one of them, upon the sale of a horse belonging to the firm, gives a warranty, the other is nevertheless bound thereby. This principle has a rather wide application, thus any one member of a firm or of a trading partnership may bind his copartners by accepting, drawing, or endorsing a bill of exchange, or by making or endorsing a promissory note in the name of the firm; by selling or insuring the partnership effects; by receiving money for the firm; by releasing debts due it; and by other acts or contracts of a similar nature, or incidental to conducting the business of the firm.

Terminating a Partnership. One or more of the members of a firm may retire from business by disposing of his or their stock, or the partners may have a voluntary settlement and balance their accounts, and if a certain sum of money is found due one of them and the other refuses to pay it, he may be sued in an action at law for

such balance. But in general one partner can not sue his copartner in an ordinary action at law for any claims in respect to partnership accounts, or in any other matter connected with partnership transactions. The reason is this, a court of law, where a knowledge of the facts is generally confined to the parties themselves, can not do justice between them. So, when a suit becomes necessary, they apply to a court of equity where both parties can be compelled to disclose all matters connected with their affairs and a full investigation, and settlement of their accounts can be made.

It is usually better for members of a firm to wind up their business amicably, but sometimes this is impossible.

Partnerships may be dissolved in various ways: by death of either of the partners unless there is an express stipulation to the contrary; where one of the partners becomes a bankrupt; where one of the partners commits a wilful fraud, or is guilty of other gross misconduct.

Upon the dissolution of a copartnership, each partner, unless there is an express agreement to the contrary, has power to receipt for and settle debts due the firm, and a payment made to any one of them will be good, unless some one is designated to collect the outstanding debts. All power to make new contracts ceases the moment the partnership is at an end. Each retains only such power to act for the firm as is necessary for the settlement of such previous transactions as may remain open.

SUGGESTIVE QUESTIONS

What is an apprentice? What are three of his obligations? If the master commands his apprentice to steal, must the apprentice obey? Give two reasons for your answer. What authority must a person have to make a valid sale when the owner is not present? What is such a person called? How must an agent receive his authority? What is the general rule as to the right of a person

to appoint an agent? If several persons are engaged in a partnership business, can any one of them appoint an agent for all? Why? State the difference between a verbal appointment and a written appointment. When can a person safely pay money to an agent? If an agent receives money and misapplies it, who is responsible? When can an agent legally appoint sub-agents? When can an agent renounce the authority of his principal? Is a public officer an agent? Why? If an agent becomes insane, would his insanity cancel his contract? How may an agency be revoked? May an infant appoint an agent?

Write a contract appointing a person to buy cattle for you in the county in which you live, the contract to be valid for one year. Is an auctioneer an agent? Give two reasons for your decision.

How may a partnership be formed, and between whom may it be formed? What constitutes the essence of a contract? What is meant by the interest of third persons? State the difference between a Nominal and a Silent partner? State when the action of one of the partners will bind the other members of the firm. One in which the firm is not bound. Is there any relation of the acts of one of the members of a partnership of the same character as that of an agent acting for his principal? Give an illustration. In your state how may one partner sue another? What is understood by the dissolution of a partnership? Why should notice of a dissolution be given? Can there be a partnership if one has all the profits? How may a person, not a partner, render himself liable? Why is this? In what different ways may a partnership be dissolved?

CHAPTER XV

TRIALS AT LAW

Are Necessary. Owing to the numerous relations into which persons may enter and the differences that arise relating to the rights and duties of the parties themselves, our laws point out remedies for wrong, either to persons or to property. The process of legally righting a wrong is by trial, which is the examination of a cause before a judge or court, having jurisdiction of the matters in controversy according to the laws of the land. Most trials in our country are jury trials. The trial by jury is of great antiquity. It is well established that it was in early times used by all the nations of northern Europe, although it was partially superseded by the introduction of the Norman trial by the wager of battle. But it was always highly valued by the people, and has long been considered by the English speaking people as one of the chief bulwarks of their liberties which must be sacredly guarded. When a person is entitled to a trial by a jury he may waive his right, if he chooses to do so, and ask that the judge or the court render a decision. But in civil proceedings either the plaintiff or defendant may call for a jury.

A Brief Summary. To give some general statements about trials is as much as can be done in a small elementary treatise touching legal procedure. In every action relating to civil matters, the one who institutes the proceeding is technically called the plaintiff, and the one

against whom the action is brought is called the defendant. The object ought to be to establish a right or to obtain a remedy.

In every court there must be a judge who presides and directs the entire proceedings, and decides upon the relevancy of testimony, the application of the law, or what facts may be allowed as admissible. Every court of record has a clerk whose duty it is to keep a faithful minute and record of all the proceedings. A sheriff is in attendance, or deputy sheriff, who maintains order in the court room, obeys the order of the court, and serves its processes. The jury is composed of six or twelve men who are supposed to know nothing of the matter in controversy, but under the direction of the court they are to decide or pass upon matters of fact or evidence, while the court passes upon the law applicable to the case. After the jury has heard the evidence and listened to the speeches of the lawyers, they are left alone to arrive at a decision, technically called a verdict. A fuller description will be given under the head of

PLEADINGS

The Pleadings are the mutual statements of the parties to a cause, which set forth the matters in dispute between them. The practice is for the plaintiff to file a written statement by his attorney of the matters he complains of, and the defendant through his attorney files an answer in writing. The plaintiff's statement is called a declaration, complaint, petition or bill. Sometimes the answer of the defendant is of such a nature that the plaintiff finds it necessary to reply to it, and the defendant to answer again to the reply, and so on till a point is reached which one affirms and the other denies. These mutual statements and replies are called the pleadings, and the plead-

ings are not, as may be supposed, the speeches made by the lawyers to the jury.

Whenever one person denies all the facts or any material fact charged by the other, with the intention of resting his case on the truth or falsity of such fact or facts, the question thus raised is an issue of fact, and the person making the denial thereby raising the question and is willing to submit it to the decision of a jury, is said to tender an issue. This denial imposes upon the plaintiff the necessity of proving the facts so denied. The plaintiff has asserted their existence, their existence proved is necessary to sustain his case, otherwise he has asserted what can not be proved. If a plea does not deny all the facts alleged by the plaintiff, those not denied will be regarded as true. It may be that the defendant admits the facts stated by the plaintiff, but denies the jurisdiction of the court; or the defendant may admit the facts but claim that they are not sufficient in law to entitle the plaintiff to the redress he seeks. The filing of such a pleading is called a demurrer, and if the court sustains the demurrer, the plaintiff loses his case or he is allowed to amend his pleadings, or to appeal from the decision. A demurrer raises an issue of law. But a pleading which denies the allegations of the other's pleadings raises an issue of fact.

Hear Both Sides. Frequently it happens that the plaintiff's cause of action shows a lawful demand and all the facts alleged are consistent with the truth, and yet the plaintiff may not be entitled to recover because of additional facts not yet mentioned. In alleging such new fact or facts it now devolves upon the defendant to prove what he avers. A plea of this kind is called a special plea in bar, because it sets up some particular fact or facts to bar or stop the plaintiff's right to a cause of action. It is

also called a plea of confession and avoidance, because it admits the facts, but seeks to avoid their consequences by the introduction of some new matter which will prevent the plaintiff's recovery.

Successive Stages. But if the plaintiff denies the fact set up by the defendant, he makes a plea which is called a replication. The plaintiff may admit what the defendant avers, but avoid it by asserting an additional fact or facts, and the case may hinge on the truth or falsity of this new fact. Thus, the pleadings may be strung out technically as follows: The cause of action filed by the plaintiff is usually called the *declaration;* the answer by the defendant, a *plea;* the reply to the plea, the *replication;* the answer to that is a *rejoinder,* and the answer to a rejoinder, a *surrejoinder.* Occasionally the pleadings are carried further, as where the defendant answers a surrejoinder by a *rebutter,* and the plaintiff replies to that by a *surrebutter.*

The Rule of Law. As a rule, the parties to a suit are required to prove what they assert, and no more. They should allege what is absolutely necessary; but sometimes they entertain doubts as to the precise facts which will sustain them in law, and hence more than one count is frequently charged in the declaration, so that if one is ruled out by the court the other or others will hold, and in like manner the defendant may file several pleas, as it were, to the same cause of action, so that if any one plea can be sustained by sufficient proof, the plaintiff loses his case.

If any of the pleas are frivolous, or irrelevant, it is not necessary for an attorney to present them, for the court will order them to be struck out when attention is called to the fact by the attorney of the opposite side.

PLEAS IN ABATEMENT

A Plea in Abatement is a matter of defense which defeats an action for the present, because of a defect in the writ or the declaration. If the defect is of the writ, it may be of an irregularity, or informality in its terms, form, issue, service, or return, or for want of jurisdiction of the court; if to the action—as misconceived, or because the right has not yet accrued, or because another action is pending involving the same issue; or it may be to the declaration on account of a misnomer of a party, the disability, alienage, infancy, coverture, lunacy, imprisonment, or a variance between the writ and the instrument sued upon. None of these defects go to the merits of the case, and the most of them can be remedied by asking leave of the court to amend. Should the issue involved be a matter of law the judge decides it, but if it is an issue of fact, it is submitted to a jury unless the parties to the suit waive their right and agree to let the court decide.

THE JURY

The Jury is usually a body of twelve men summoned from the residents of the county where the case is to be tried. They are impaneled and sworn to try the issue in the particular case and to render a verdict according to the law and the evidence. Objections may be made to some or all of the jurors summoned for various legal reasons. The right to peremptory challenge in civil suits is usually limited to a small number. After the jury has been duly impaneled and sworn to try the case, the counsel for the parties to the suit read or state the pleadings, or the substance thereof to the jury, together with a summary of the evidence which will be produced in support of the issue. The counsel for the plaintiff states his side first, followed by a statement of the counsel for

the defendant. These statements are intended to prepare the jurors to know what the suit is about and the nature of the evidence that will be introduced by each.

What Constitutes Evidence. Evidence includes all the means by which any alleged matter of fact, the truth of which is submitted to investigation, is established or disproved. To prove a proposition or an issue is to show that it is true. Evidence in law includes statements made by witnesses under oath to tell the truth in relation to matters of fact under inquiry, and all legal documents, or certified copies of such documents, produced for the inspection of the court and the jury. Evidence in a general way is of three kinds, namely, conclusive, prima facie, and evidence tending to prove. *Conclusive evidence* is such evidence as the law does not allow to be contradicted, that is, it excludes all evidence to the contrary. *Prima facie evidence* is such evidence as in the judgment of the law, or in the absence of evidence to the contrary, is sufficient to establish the fact. *Evidence tending to prove* a fact is any competent evidence which tends to establish the existence of the fact in issue. It may be the best kind of evidence that the nature of the case admits of. When evidence is offered, the judge decides all questions as to its competency or its admissibility, but it is the province of the jury to determine its credibility, or how much weight it should have in their decision. But where evidence is once permitted to go to the jury they may give such degree of credence to it as they believe it is entitled to.

Testimony of the Witness. When a witness is called to testify, he is expected to state only such matters as have come within his own knowledge or observation. As a general rule, hearsay evidence is no evidence. There are a few exceptions to this rule, as the statement of a dying

person who is dying from an injury received; or if a witness had made certain statements in court, and had afterwards died, witnesses may be summoned to state what he said. Witnesses are classified as competent, credible, interested, swift and zealous. A competent witness is a person who is legally qualified to give testimony; a credible witness is a person deserving of confidence, and is worthy of belief; an interested witness is a person who is directly interested in the result of the suit; a swift or willing witness is a witness very eager to testify; a zealous witness is one who evinces partiality for the party who calls him to testify.

The Usual Custom. It is the common practice of each party before commencing to introduce his evidence, if requested by the party against whom they are to testify, to have all the witnesses retire from the court room, and then call in each witness separately to give his testimony and to be cross-examined. This is done so that each witness may depend on his own memory. The order in which the witnesses are called is left to the counsel conducting the case. The plaintiff offers all the evidence he deems necessary before he announces that he has closed. Witnesses may be recalled later, however, to prove any new disclosure brought out by rebutting testimony offered by the opposing party. The examination of a witness by the party calling him is technically called the examination in chief. At the close of his testimony, he is then cross-examined. The cross-examination is for the purpose of ascertaining whether the witness has stated all he knows about the case, or whether he has suppressed any material facts. Leading questions may be put to him. If new matter is brought out in the cross-examination, then the witness may be further examined by the party that first called him. The defendant's witnesses are introduced

and examined in the same manner as were the plaintiff's, and subject also to the same kind of cross-examination. Witnesses may be introduced either for the purpose of contradicting the witnesses of the other party, or of directly impeaching the credibility of the opposite party's witnesses by showing that they are unworthy of belief.

Credibility of the Witness. If a witness sustains a bad reputation for truth and veracity, his statement under oath is not entitled to credit. In impeaching a witness the usual question asked the witness on the stand is: "Are you acquainted with the general character which A. B. sustains in this community for truth and veracity?" If the reply is in the affirmative, the witness is then asked: "What is that character?" The witness is required to answer "It is good," or "It is bad." The witness may be further asked if he "would believe him under oath?" If he answers that he would not, the witness is then turned over to the opposing counsel who upon cross-examination endeavors to break down the testimony of the impeaching witness. Witnesses may also be introduced to establish the character of the impeached witness for truth and veracity.

Depositions. Sometimes the testimony of witnesses is given in the form of depositions, which are the statements of witnesses taken under oath before a magistrate or notary public. The statute law of each state prescribes the mode of taking depositions. The opposite party must always have notice of the time and place of taking a deposition, so as to enable him to attend or to procure some competent person to represent him and to cross-examine the witness, should he wish to do so. The questions and answers are all written down, and at the close of the examination they are read over to the witness; he suggests changes, perhaps, and then the state-

ment is signed by him and properly certified to by the officer who took it, who then seals it and transmits it to the proper officer of the court.

After both parties have offered all the evidence in support of their respective sides, then begin the arguments before the jury.

THE ARGUMENT, INSTRUCTIONS, AND VERDICT

The Argument. Great latitude is usually allowed in legal discussions, provided the counsel speak within reasonable bounds, because it is desirable that each party should be at liberty to say what he desires touching the case before final judgment is pronounced. It is clearly within the province of the court to check the speakers, and even to fine or to imprison them for breaches of decorum amounting to contempt of court. It is the rule for the affirmative to open and to close the argument. The length of time to be occupied by each side is fixed by the court, but the order in which the counsel shall speak is determined by the counsel of each side themselves. Many persons have an idea that the speeches are the pleadings, but this is an erroneous view. See page 150. After the arguments are concluded, if the case has been tried before a magistrate or a judge, without a jury, the decision is given and judgment is rendered accordingly. If the judge is not ready to give his decision, he takes it *under advisement* until he, in compliance with the law, arrives at a conclusion. He may deliver his decision orally or in writing, as he may prefer. But if it be a jury case, after the argument has been concluded, the judge gives instructions to the jury on the law applicable to the case, and the jury then make an application of the law to the evidence, and thus determine in whose favor they should give a verdict. Usually the jury retire to a private

room to consider the evidence and what kind of a verdict should be rendered. Occasionally a case is so one-sided that a verdict is rendered without leaving the jury box. The jury is conducted to the private room by the sheriff or his deputy, and they are kept from communication with all outside persons, and sometimes without food, until they are unanimously agreed. Sometimes the jury can not agree, and the fact is so stated by the foreman, and the jury is discharged by the court, and the case is to be tried anew.

Form of Verdict Varies. The form of a verdict varies with the nature of the case. It is always a finding for one of the parties, and when a sum of money is sued for, it ascertains and fixes the amount. Where the jury have agreed upon a verdict they are conducted by the sheriff or his deputy to the court room, and upon taking their seats, they are asked by the judge if they have agreed, and the one who has been elected foreman says they have, and he presents the verdict in writing. It is then read by the clerk, and if they have made any error in mere matter of form it is corrected under the direction of the judge, before it is entered as a matter of record. If either party thinks that the judgment ought not to be pronounced against him, he may make a motion for an arrest of judgment or for a new trial. When a judgment is arrested, the result is the same as if there had been no trial. When a new trial is granted the case is tried before another jury.

THE JUDGMENT

The Judgment is the sentence of the law pronounced by the court upon the matter contained in the record. A final judgment is the one which at once puts an end to

A FRONTIER SCHOOL HOUSE

the suit. A judgment thus solemnly rendered by a court having competent jurisdiction is conclusive, and can not be set aside within the jurisdiction where it is rendered, unless it be reversed by a superior court on proceedings instituted for that purpose. A judgment stands as a *lien* upon the property of the party till the judgment is paid.

There are two ways of satisfying a judgment: by paying it off, or by means of a writ called an execution, which is to carry the judgment into effect to enforce satisfaction. If a judgment be not stayed, suspended, satisfied, or reversed, the plaintiff is entitled at any time to request an execution to be issued. Executions may be against the property or the person of the defendant. But the most common species of execution is the *fiera facias,* because it commands the sheriff to *cause to be made* the sum or debt out of the property of the defendant. Certain property is exempt under statutory law in each state. The taking possession of property for the recovery of a debt is a *levy,* and the next step after the levy has been made legally is to advertise the property for sale to the highest bidder. The sheriff at the date and place advertised proceeds to sell the property, and the money received is applied to the payment of the debt.

Do Not Go To Law. A few words concerning the cost of civil suits will now be given. The losing party against whom final judgment is rendered pays the cost in the prosecution of the suit. If the plaintiff sues and the verdict is for the defendant, then the cost is assessed against the plaintiff, unless he institutes proceedings as a poor person. It frequently happens that a case is continued at the cost of the one who asks for the continuance.

A word of advice will not be amiss here: *Avoid going to law if possible.*

SUGGESTIVE QUESTIONS

Upon what idea was the trial by jury founded? What were the kinds of trials persons were subjected to in early times? Can you give a sketch of a jury trial? What is meant by trying one by his peers? When may the trial by a jury be waived? Define declaration, answer, demurrer, replication, rebutter, surrebutter, jury, verdict, judgment, execution. What is the difference between an issue of fact and an issue of law? How much property in your state is exempt from execution under law? How may witnesses be classified? Have you ever attended a trial?

CHAPTER XVI

CRIMINAL LAW

A Crime Defined. A criminal offense is an act done or omitted in violation of the laws of the country, forbidding the act committed, or commanding that it be omitted, and declaring such an act or omission to be a crime. A crime is, therefore, an act committed or omitted in violation of public law. The right to punish crime depends primarily on the right of the state to protect itself. An idiot, a lunatic, or a little child can not commit a crime, because such a one does not know right from wrong, and can not be held responsible for his actions.

A Distinction. There are two words in common use, "crimes" and "misdemeanors," while not differing in legal signification, yet "crimes" is of a more serious nature than "misdemeanors." Crimes are sometimes spoken of as felonies and misdemeanors. Felonies are such offenses as are punishable with death or imprisonment in a state penitentiary, and misdemeanors are offenses of a lower grade and lighter punishments. To constitute a crime there must not only be an act done, but there must also be a will or intention to do it. The mere intention to commit a crime, if never carried into effect, can not be punished by temporal tribunals, though properly there is a violation of the moral law. It is of the utmost importance that one should inform himself what acts are criminal, because ignorance is not an excuse in law.

The criminal law deals not with intentions, but with overt acts. But sometimes it happens that a man attempts to commit a crime, and for some purpose of which he is ignorant, he can not commit it, yet he is held to be criminally responsible. A good illustration is picking a pocket when there is nothing in the pocket, or to attempt to shoot another with an unloaded gun, believing it to be loaded. In such cases the person is generally held to be criminally responsible.

There are many kinds of crimes, and in the commission there may be one or more persons guilty as principals and accessories. The principal is the actor or actual perpetrator of the crime, or who is present aiding and abetting in the commission of the crime. He may not do the deed himself with his own hands to constitute him the principal. He may be the murderer by the means that he had prepared beforehand. Thus, if one should prepare a poison and induce another to drink it at some future time, or should set a gun whereby another is killed, in all such cases the person who prepared the means will be deemed as having committed the crime. It is not absolutely necessary that the principal be present when the crime is committed. He may be off watching, but he is said to be constructively present.

Accessories. An accessory is not the chief actor at the time of the offense, nor need he be present either actively or constructively, but he is connected with the offense before or after it is committed. Accessories are of two kinds: those before the fact and those after the fact. An accessory before the fact is one who had counseled, advised, or commanded another to perpetrate the offense. Mere concealment of a crime to be committed, or mere tacit acquiescence, does not make one an accessory, though he is liable to punishment. An accessory after

the fact is one who knowing that a crime has been committed, conceals, or gives aid and comfort to the offender to enable him to avoid arrest, trial, conviction, or punishment. The assistance must be of a positive kind, and for the purpose of hindering justice or to escape punishment. If a person advises another to commit an offense, and instead of doing that particular thing, the other should do an entirely different thing, the one would not be an accessory.

HOMICIDE

Homicide is the killing of any human creature, and in law there are three kinds—justifiable, excusable, and felonious homicide. It is justifiable when life is taken by the proper officer of the law in pursuance of the lawful sentence of a court; or in the lawful defense of one's own property or life. In the execution of a legal sentence the public officer must follow the provisions of the law exactly. He must execute the very sentence and no other. Should one person assault another with the intention of killing him, the one thus assaulted may kill his assailant in self-defense and it would be justifiable homicide. The killing of an enemy in time of war, or the execution of persons for breaches of military rules, is based on the same doctrine.

Excusable homicide is where a life is lost by an accident in the lawful doing of a proper act, or is taken to prevent death or a grievous injury to another person. Should the head of a hatchet fly off when a man is using it, and it strikes another and kills him, it is excusable homicide. Street car, automobile and other serious accidents are good illustrations, where there is no intent to commit a crime. Under such cases it is necessary to establish the fact that the one was using the utmost care and that the

accident under the circumstances could not have been prevented.

Felonious homicide is the killing of a human being, of any age or sex, without justification or excuse. The different degrees of guilt give rise to divisions of this offense into manslaughter and murder. The highest grade of murder is that of the first degree which is the unlawful and felonious killing of another human being with malice aforethought. However the murder may be committed by which human nature is overcome, it is murder in the first degree.

Murder in the second degree is like murder in the first degree, but it lacks premeditation which is the essential element in murder of the first degree. It has the element of malice in it, but not as already stated of forethought, or premeditation.

Manslaughter is the unlawful killing of another human being without malice, and it is either voluntary or involuntary. Should one person kill another in the heat of a sudden passion, or under the stress of a tremendous and sudden excitement caused by some instant provocation, it would be voluntary manslaughter. The passion should be very powerful and the cause of provocation great, but if there be malice aforethought which led to the murder, it would not be manslaughter. The idea of malice must be absent in the mind of the slayer to constitute manslaughter.

Involuntary manslaughter is the killing of a human being without malice and with no intent to kill, or to cause death, but committed accidentally in doing an unlawful act in itself, or a lawful act in an unlawful or careless way. The true nature of manslaughter is, that it is homicide mitigated out of tenderness to the frailty

of human nature. The homicide may be the result of reeklessness or of foolhardiness.

As a result of the commission of infamous crimes of an aggravated character, in addition to the legal punishments pronounced by the court or the jury, the condemned are disfranchised and rendered incapable of holding any office of honor or trust under the national or state government.

OTHER CRIMES

Among the crimes of less magnitude than homicide may be mentioned arson, burglary, larceny, libel and slander, perjury, forgery, etc.

Arson. Arson is the malicious and wilful burning of a house or outhouse of another person. It is arson if one should set fire to his own house and thereby burn his neighbor's house, or if one should set fire to his own house in order to collect the insurance on it. The crime of arson has always been considered as a very heinous offense, besides causing great damage, it frequently results in murder. The burning must be occasioned maliciously and voluntarily. There must be an actual burning of the house or some part of it. The statute law of each state defines arson and specifies the punishment, which is usually very severe.

Burglary. Burglary is the breaking into and entering the house of another in the night time with intent to commit a felony, whether the felony be actually committed or not. The breaking may mean the lifting of a latch, the removal of a portion of a window, or by getting in by an artifice. The intent must be to commit robbery, murder, or other felony, whether the crime be actually committed or not. To break into a church or a school house at night with the intention to steal is burglary. By night

is meant when there is not sufficient light to discern clearly a man's face. If there is no intent to murder, to rob, or to commit some other felonious crime, the entry would be trespass.

Larceny. Larceny is the felonious taking and carrying away the goods of another. There must be an actual taking of the personal goods without his consent. The taking must be felonious, or with the intention to steal the thing taken, and this intention must exist at the time the goods first come into the possession of the offender. But if one comes into the possession of goods or money lawfully, and then decides to convert them to his own use and does so, that is not larceny, but embezzlement. Larceny relates to personal property. Should one leave his goods with another as security for a debt, and then steal his own goods that would be larceny.

Robbery. Robbery is a species of larceny, but it differs in this respect: It is the felonious and forcible taking from the person of another goods or money by violence or putting him in fear. There must be a taking from the person of the owner to constitute robbery, or if by threats, the property is taken in the presence of the owner, though not from his person. If a thief snatches an article of slight value and runs off with it, it is robbery, and if a man be knocked down, though insensible, and stripped of his valuables, it is robbery. Picking one's pocket quietly where there is no struggle is not robbery, it is larceny. The element of fear or intimidation must enter into the offense to constitute robbery.

Libel and Slander. It is a theory of the common law that every person is entitled to a good reputation, and that any injuries affecting a man's reputation and good name are malicious. Scandalous and slanderous words, and any printed or written libels, pictures, signs, etc.,

which set him in an odious and ridiculous light before the public and thereby diminish his reputation, are slanderous. If false, defamatory words be written and published, they constitute libel, but if spoken they constitute slander. Libel is addressed to the eye, and slander to the ear. Libel is the more aggravated, because the printed page far exceeds in circulation spoken words. A libel may be a caricature, a scandalous painting, a drawing or an effigy. It is essential in order for an action for either libel or slander, that the defamatory words be printed or spoken and that they reach a third person. If a letter containing defamatory words be written to one and to no other, and he shows the letter to another person, it is not libel, for the publication is his own act. Likewise if one shouts a slander and no one hears him, it is not slander. The communication between a husband and wife in regard to a third person is a privileged communication and is not regarded as slander, and it is not deemed a publication; but if it be in the hearing of a third person there is publication. A slander or libel against either husband or wife, if heard by the other, is a publication of that fact. The words spoken or written must have a malicious intent and designed to injure the person in his business relations, or in his moral character in the estimation of right-minded people. A suit thus brought is to obtain damages for the injury sustained.

Perjury. Perjury is where a lawful oath is administered, in some judicial proceeding, to a person who swears wilfully, absolutely and falsely, in a matter material to the issue, or point of inquiry; or under oath he wilfully gives false testimony on a matter material to the point in issue; or even taking a false oath in a judicial proceeding. The false statement must be made wilfully, because this is essential to the crime. The offense is extended to all cases

of false swearing. For the punishment of perjury and other state offenses, the reader should consult the statutes of his own state.

Forgery. Forgery at common law is the fraudulent making or altering of a writing to the prejudice of another man's rights. The altered instrument itself is also called a forgery. Forgery involves both fraud and deceit. Forgery may be committed either by making an instrument in writing wholly false, or by making a fraudulent insertion, alteration, or erasure in any material part of a true document, by which another may be defrauded. The fraudulent application of a false signature to a true instrument, or a genuine signature to a false instrument, the altering of a bank note, a check, draft, or a note of hand, from a higher to a lower, or from a lower to a higher value, however slight the alteration, is a forgery. The alteration must carry with it the intention to defraud some person. Counterfeiting is only one species of forgery. The forgery is said to be complete when the forger, by word or act, declares that the forged instrument is genuine when he knows that it is false.

Breaches of the Peace. A breach of the peace is any violation of public order; an offense of disturbing the peace; an act of assault or violence. In general, breaches of the peace include unlawful assemblies, riots, affrays, forcible entry and detainer, the wanton discharge of fire arms near a sick person, sending challenges and provoking fights, going armed in public without lawful cause, to the alarm of the public; profane cursing and swearing in public places, profanation of the Lord's Day, engaging in a fight to the terror of peaceably disposed citizens,— and all similar offenses.

Notwithstanding much has been said about crimes and criminals, the author can not close this little volume more

appropriately than by inserting the following quotation by Charles P. Johnson:

We Punish the Mind; Not the Body

We are not "coddling" the criminal in this or any other country. The law is just as full of vengeance to-day as it was one century or two centuries ago.

Our methods and ideas of punishment are founded on the old Mosaic law of "An eye for an eye, and a tooth for a tooth."

We took our methods direct from the common law of England, the same England that at one time had over sixty crimes punishable by death upon her statutes. Our criminal system is changed in form but not in effect. It punishes the mind now where it once tortured the body.

Every man who is about to serve upon a jury where the penalty may be either a long sentence in the workhouse or a sentence in the state prison, should be required to spend a number of days in getting a true understanding of what a prison sentence means. He should submit to confinement himself for a period long enough that he might understand its terrors.

It should be remembered that the prisoner is a man.

MOOT COURT CASES*

Let the teacher divide his class into two divisions and give them one of the propositions below as a moot court case for argument. Let them have a week or more for preparation. One of the class might sit as judge or there might be several judges. Impress upon the judges that they are to strive just as earnestly to give a correct decision as the debaters are to strive to win. The teacher may be the appellate court, and affirm or reverse the decision of the "court below."

1. Jones contracted to work for Brown for $50.00 a month, agreeing that if he left without giving at least two weeks' notice he should receive nothing for wages due at time of leaving. After having worked for several

* From the "State Normal Record."

months, he was arrested for a misdemeanor, convicted, and sentenced to three months in jail. He was unable under these circumstances, to give his employer the two weeks' notice agreed upon. At the time of his arrest there was due him $40.00 as wages. After serving his sentence he demanded of Brown the $40.00 that he claimed was due him, but Brown refused to pay him anything. Brown had been damaged more than $40.00 by the loss of Jones' services. Can Jones recover anything?

2. Kelley wrote Moore the following letter:

In consequence of a break in the salt trade, I am authorized to offer Michigan fine salt, in full carload lots of 80 to 95 barrels, delivered at your city, at 85 cents a barrel, to be shipped per L. S. R. R. only. At this price it is a bargain, as the price in general remains unchanged. Shall be pleased to receive your order.

Moore replied by telegram:

Your letter of yesterday received and noted. You may ship 2,000 barrels Michigan fine salt, as offered in your letter. Answer.

Kelley refused to fill the order, and Moore sued him for damages for breach of contract. Can Moore recover damages?

3. On the first of May, 1912, the merchants of Russellville signed an agreement as follows:

We, the undersigned, merchants of Russellville, do hereby agree and obligate ourselves to close our places of business at six-thirty o'clock, beginning May 15, 1912, and lasting until the first of September.

After carrying out this agreement for a few evenings, John Wilson, one of the signers, notified the other merchants that he declined to comply further with the agreement. He proceeded to disregard it, and the other merchants brought injunction against him to compel him to close his store as he had agreed to do. What decision?

CONSTITUTION

OF THE

UNITED STATES OF AMERICA.*

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.*

ARTICLE I.

Section. 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section. 2. [§ 1.] The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.*

[§ 2.] No Person shall be a Representative who shall not have attained to the Age of twenty-five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

[§ 3.] Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, [which shall be determined by adding to the whole Number of free Persons,] including those bound to Service for a Term of Years, and excluding Indians not taxed, [three fifths of all other Persons]†. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term

* There is no title in the original manuscript.
* The original document is followed in the use of capital letters and in orthography.
* Modified by Fourteenth Amendment.

of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; [and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.]‡

[§ 4.] When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

[§ 5.] The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

SECTION. 3. [§ 1.] The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

[§ 2.] Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

[§ 3.] No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

[§ 4.] The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

[§ 5.] The Senate shall chuse their other Officers and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

[§ 6.] The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the

† Superseded by Fourteenth Amendment.
‡ Temporary clause.

Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

[§ 7.] Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

SECTION. 4. [§ 1.] The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

[§ 2.] The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

SECTION. 5. [§ 1.] Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

[§ 2.] Each House may determine the Rules of its Proceedings, punish its Members for Disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

[§ 3.] Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

[§ 4.] Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

SECTION 6. [§ 1.] The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place

[§ 2.] No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

SECTION. 7. [§ 1.] All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

[§ 2.] Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

[§ 3.] Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

SECTION. 8. The Congress shall have Power [§ 1.] To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

[§ 2.] To borrow Money on the credit of the United States;

TOP-LIGHTED CLASS ROOM

[§ 3.] To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

[§ 4.] To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

[§ 5.] To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

[§ 6.] To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

[§ 7.] To establish Post Offices and post Roads;

[§ 8.] To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

[§ 9.] To constitute Tribunals inferior to the supreme Court;

[§ 10.] To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

[§ 11.] To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

[§ 12.] To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

[§ 13.] To provide and maintain a Navy;

[§ 14.] To make Rules for the Government and Regulation of the land and naval Forces;

[§ 15.] To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

[§ 16.] To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

[§ 17.] To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

[§ 18.] To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other

Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

SECTION. 9. [§ 1.] [The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.]*

[§ 2.] The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

[§ 3.] No Bill of Attainder or ex post facto Law shall be passed.†

[§ 4.] No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

[§ 5.] No Tax or Duty shall be laid on Articles exported from any State.

[§ 6.] No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

[§ 7.] No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

[§ 8.] No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.‡

SECTION. 10. [§ 1.] No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

[§ 2.] No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be

* Temporary provision.
† Extended by the first eight Amendments.
‡ Extended by Ninth and Tenth Amendments.

absolutely necessary for executing its inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Control of the Congress.

[§ 3.] No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.*

ARTICLE. II.

Section. 1. [§ 1.] The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

[§ 2.] Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

[The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this Purpose shall

* Extended by Thirteenth, Fourteenth and Fifteenth Amendments.

consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.]*

[§ 3.] The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

[§ 4.] No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

[§ 5.] In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation, or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.*

[§ 6.] The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminshed during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

[§ 7.] Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—

"I do solemnly swear (or affirm) that I will faithfully execute "the Office of President of the United States, and will to the best "of my Ability, preserve, protect and defend the Constitution of the "United States."

SECTION. 2. [§ 1.] The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relat-

* Superseded by Twelfth Amendment.
* See page 94.

ing to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

[§ 2.] He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

[§ 3.] The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

SECTION. 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

SECTION. 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

ARTICLE III.

SECTION. 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

SECTION. 2. [§ 1.] The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the

United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;*—between Citizens of different States,—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

[§ 2.] In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

[§ 3.] The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section. 3. [§ 1.] Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

[§ 2.] The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

ARTICLE IV.

Section 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section. 2. [§ 1.] The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.*

[§ 2.] A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another

* Limited by Eleventh Amendment.
* Extended by Fourteenth Amendment.

State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

[§ 3.] [No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.]†

SECTION. 3. [§ 1.] New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

[§ 2.] The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

SECTION. 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

ARTICLE. V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided [that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and]* that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

† Superseded by Thirteenth Amendment.
* Temporary provision.

ARTICLE. VI.

[§ 1.] All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.*

[§ 2.] This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

[§ 3.] The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

ARTICLE. VII.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

[Note of the draughtsman as to interlineations in the text of the manuscript.]
Attest
WILLIAM JACKSON
Secretary.

DONE in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth **In Witness** whereof We have hereunto subscribed our names.*

GO WASHINGTON—
Presidt and deputy from Virginia.

Delaware.
GEO: READ
GUNNING BEDFORD jun
JOHN DICKINSON
RICHARD BASSETT
JACO: BROOM

New Hampshire.
JOHN LANGDON
NICHOLAS GILMAN

Massachusetts.
NATHANIEL GORHAM
RUFUS KING

* Extended by Fourteenth Amendment, Section 4.
† These signatures have no other legal force than that of attestation.

Maryland.
JAMES MCHENRY
DAN OF ST. THOS. JENIFER
DANL CARROLL

Virginia.
JOHN BLAIR—
JAMES MADISON JR.

North Carolina.
WM. BLOUNT
RICHD. DOBBS SPAIGHT
HU WILLIAMSON

Georgia.
WILLIAM FEW
ABR BALDWIN

South Carolina.
J. RUTLEDGE,
CHARLES COTESWORTH PINCKNEY
CHARLES PINCKNEY
PIERCE BUTLER.

Connecticut.
WM. SAML. JOHNSON
ROGER SHERMAN

New York.
ALEXANDER HAMILTON

New Jersey.
WIL: LIVINGSTON
DAVID BREARLEY
WM: PATERSON.
JONA: DAYTON

Pennsylvania.
B FRANKLIN
THOMAS MIFFLIN
ROBT. MORRIS
GEO. CLYMER
THOS. FITZ SIMONS
JARED INGERSOLL
JAMES WILSON
GOUV MORRIS

ARTICLES in addition to and Amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.*

[ARTICLE I.]†

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

[ARTICLE II.]

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

* This heading appears only in the joint resolution submitting the first ten amendments.
† In the original manuscripts the first twelve amendments have no numbers.

[ARTICLE III.]

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

[ARTICLE IV.]

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

[ARTICLE V.]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

[ARTICLE VI.]

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

[ARTICLE VII.]

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

[ARTICLE VIII.]

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

[ARTICLE IX.]

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

[ARTICLE X.]

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.*

[ARTICLE XI.]

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.†

[ARTICLE XII.]

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall

* Amendments First to Tenth appear to have been in force from Nov. 3, 1791.

† Proclaimed to be in force Jan. 8, 1798.

choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.—The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.*

Article XIII.

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. Section 2. Congress shall have power to enforce this article by appropriate legislation.*

Article XIV.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdictoin the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But

* Proclaimed to be in force Sept. 25, 1804.
* Proclaimed to be in force Dec. 18, 1865. Bears the unnecessary approval of the President.

when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.*

ARTICLE XV.†

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.—

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.—‡

The above text is from the Original Manuscript Rolls.

* Proclaimed to be in force July 28, 1868.
† Amendments Thirteenth, Fourteenth and Fifteenth are numbered in the original manuscripts.
‡ Proclaimed to be in force Mar. 30, 1870.

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A TRIO OF UNIVERSITY DEBATERS

THE

GOVERNMENT OF MISSOURI

A STUDY OF THE COMMUNITY
AND THE STATE

FOREWORD

The last five years have seen a remarkable change in the teaching of the subject of Civics. Under the old regime, instruction in Civil Government too often meant merely a detailed, and usually distasteful, study of the Constitution of the United States. It utterly failed to awaken the pupil to a consciousness of the great communal life going on all around him, and of which he was a part. And, whether the circumstance be considered fortunate or not, it is a fact that much, or all, of what the pupil thus learned, under even the best "drill-master," soon passed into forgetfulness.

The new order demands that more attention shall be given to applied Civics; that the instruction shall be more concrete and vital; and that it shall lead the pupil to discover that all "visible government is but the dial-plate on which is registered the movement of the inside machinery driven by the heart-beat of the people themselves."

Civics there must be; and government there must be; and law there must be, in any satisfactory text book on the subject,—and good, sound lessons, too, such as are found in this book. But the view is altered, the scope widened, and the purpose humanized, by trying to teach mankind how to become happier and healthier, and of greater benefit to society.

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THE GOVERNMENT OF MISSOURI

CHAPTER 1

A SKETCH OF THE STATE

Origin of Name. Missouri, the name of the state and of the river which flows through it, is an Indian name which signifies the "big muddy," owing to the turbid appearance of the water in the river. One of the remarkable facts connected with natural objects in the various states of the union is that the Indians gave the names to nearly all of them, particularly to the streams, mountains and lakes, and it is through these that the names of the original inhabitants are preserved in our historical annals.

A Part of the Louisiana Purchase. Missouri was the first state carved out of that large tract of land known as the Louisiana Purchase, ceded by France to the United States in 1803. This vast area of productive land was called Louisiana, and it included nearly all the country lying west of the Mississippi river, east of the summit of the Rocky Mountains, and south of Canada. At the time of the cession of Louisiana to the United States, the treaty then ratified contained the following provision: "The inhabitants of the ceded territory shall be incorporated into the union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages and immunities of citizens of

the United States; and in the meantime they shall be maintained and protected in the full enjoyment of their liberty, property, and the religion which they profess."

Early Settlements. France had originally owned this territory by right of discovery and exploration, but in 1762 ceded it to Spain, and the latter retroceded it to France in 1800. As soon as the French and Indian war terminated in 1763, the inhabitants from the mountainous regions of the Atlantic slope swept through the gaps of the mountains into the rich valleys of the Ohio and the Mississippi, and in many instances settling near the French villages in Indiana and in Illinois, and some of the more adventurous spirits came farther west across the Misssissippi, and became nominally citizens of Spain. During the Spanish rule of thirty-eight years, the territorial governors had entertained liberal views toward the newcomers and treated them with consideration. The people west of the mountains saw no outlet for their surplus products except down the Mississippi to the ocean. Spain held this outlet to the Gulf. The Americans looked eagerly forward to the time when they should control it.

Prior to the American Revolution many of the early French settlers had left southern Illinois and come to St. Louis, and to other French settlements west of the Mississippi. They hated the English and preferred to live under Spanish rule owing to their religious opinions. Some also came from Canada to join their countrymen along the west bank of the Mississippi.

Boundaries of Missouri. "The eastern boundary begins at a point in the middle of the main channel of the Des Moines river, due east from an iron pillar on the west bank of said river (established on an 'Indian boundary line' run in 1816, and reestablished in 1850 as the northern boundary of Missouri); thence down the middle of the

main channel of said river to the Mississippi river; thence due east to the middle of the main channel; thence down said line in the Mississippi to the parallel of 36 degrees of north latitude. The southern boundary is co-incident with the parallel of 36 degrees of north latitude between the Mississippi and St. Francis rivers, and with the parallel of 36 degrees 30 minutes of north latitude from the St. Francis river west, to the west line of the state. The western boundary begins in the middle of the main channel of the Missouri river on parallel 40 degrees 34 minutes 40 seconds, of north latitude; thence down the middle of the main channel to the mouth of the Kansas river; thence due south 177 miles, 4 chains and 83 links to the parallel of 36 degrees 30 minutes of north latitude. The northern boundary from the Missouri river east of the 'old northwest corner of the state' (prior to the Platte Purchase) is co-incident with the parallel of 40 degrees, 34 minutes, 40 seconds north latitude, (the 'old corner' was located in 1816 at a point 100 miles due north of the mouth of the Kansas river); thence eastwardly to the Des Moines river on a line surveyed in 1816, said line marked by certain mile-posts and monuments re-located and reestablished by commissioners appointed by the U. S. Supreme Court in 1849."

The width of the state between its two extreme points is about 350 miles; its northern boundary about 210 miles, and a direct line from the southwest corner to the Mississippi is about 280 miles, which is also the average length of the state from north to south. The area of the state is 68,735 square miles. If the state were a square, it would be more than 263 miles in length on each side.

Population. The population of the state, according to the Government census of 1910, was 3,293,335, being a mean of 48 persons to each square mile, were they equally

distributed over the state. The state is subdivided into 115 counties; the largest county, Texas, contains 1,159 square miles, and Worth county with 265 square miles, is the smallest county.

There are 62 cities and towns in the state having more than 2,500 inhabitants each, and there are 603 incorporated towns and villages with less than 2,500 inhabitants each, and the total number of persons living in the 665 cities, towns and villages constitute 53.4 per cent. of the entire population.

The Necessity for Government. When the United States purchased Louisiana from France, the entire population, exclusive of Indians, was estimated at about 6,000. There had been a constant stream of immigrants into the district for more than twenty years from Canada, Illinois, Kentucky and Tennessee. The Kentuckians and Tennesseeans settled chiefly at New Madrid and St. Genevieve, or on streams near by.

A census taken in 1800 shows the entire population of what is now Missouri to be 6,028 persons, and four years later the population consisted of 9,200 white persons and 1,300 negroes—mostly slaves.

It is not too much to say that the settlers during the Spanish occupancy were honest, fairly industrious, contented and prosperous. The laws were few and simple, and were very generally obeyed. The French settlers lived in villages along the streams upon the banks of which they built their houses, and their fields extended in narrow strips back some distance. The Americans, however, did not live in villages, but each built his cabin on a tract of land, and cleared his field for cultivation.

For government purposes, immediately after the cession from France to the United States, Louisiana was divided into two parts. What is now the state of Louisiana was

called the Territory of New Orleans, and all the other part was designated as the Territory of Louisiana, and attached to the Territory of Indiana, with General William Henry Harrison as territorial governor.

The people living in what was later to become the state of Missouri, objected strenuously to being attached to the Territory of Indiana, and drew up a remonstrance which they forwarded to Congress. This petition was signed by fifteen citizens, eight of whom were French. The petitioners asked that they be organized as a territory of the second class. The result of this agitation was the organization of a territory of the lowest rank. Under this form of territorial government a governor and three judges, appointed by the President, were to make the laws for the government of the territory.

During the Spanish rule extensive land grants had been made to various individuals and many of these grants were not specifically expressed by metes and bounds. So, when settlers came into the territory and looked up good locations and settled on them, many titles were brought into controversy. Litigation followed, and sometimes adverse claimants defended their titles by force of arms. Matters went on thus till 1812, when Congress enacted a law confirming to the inhabitants of the villages the lands they had occupied under Spanish and French domination. In 1812 the Territory of Missouri was organized, with William Clark as governor.

Settlers Come Rapidly. The people now poured into the territory rapidly, and four years later it became a territory of the first class. Under this act a governor was appointed by the President, and the people were authorized to elect a legislative council and a house of representatives. There were now five counties in the territory: St. Charles, St. Louis, Ste. Genevieve, Cape

Girardeau, and New Madrid. The population of the territory in 1810 was about 22,000, and in 1820 it was 66,000; perhaps 10,000 of these were negroes.

St. Louis was the territorial capital, and there the laws were enacted and the governor and territorial officers resided. A delegate was also elected to congress. Thus matters stood till the admission of the territory as a state, August 10, 1821. With the admission of Missouri as a state into the union, the people elected their own officers, enacted, through their representatives when duly assembled, their own laws, and planned out state policies along broad lines. Some of these we shall now endeavor to trace briefly.

As to Their Homes. Let it be understood at the beginning, that the early settlers in Missouri were a home-loving, law-abiding, free, independent, industrious class of men and women, and many of them were earnest Christians. They were as self-reliant as they were free and independent. Their hardships and joys were not unlike those of the first settlers of the older states, except that troubles with the Indians were fewer than in most of the other states.

In order to be a state, there must be families living in homes, and it is much better if each family has a home of its own, free and unencumbered by debt. A state is a definite tract of land occupied by people who are subject to the same general laws, and owe allegiance to the government under which they live.

Missouri, like all other states, is sub-divided into counties, the counties into townships, the townships into sections of land, these are still further sub-divided; and in cities, towns, and villages, the sub-divisions are still more minute—into additions, blocks and lots. Again, the counties are grouped into state senatorial districts, con-

gressional districts for the purpose of electing congressmen to the House of Representatives at Washington, and large cities may also be divided into congressional districts, as in St. Louis. Other divisions are made for judicial purposes. The state is divided into judicial circuits over which a circuit judge presides, and this state is divided into three appellate court districts which were created to relieve the supreme court of some of its business.

Selecting a Home. A new settler in going into a country where land is cheap would naturally look for good soil, a high, dry and healthy location, upon which to build his house and stable; an abundance of timber for fencing and fire wood and building purposes near by, and good and sufficient drinking water, and if there was building stone on his claim, so much the better. He wanted to live for the time being where game and fish were in abundance, and could be easily caught or captured. The houses were in the beginning built near streams or springs, and in the woods. The early settlers in the prairie states avoided at first building out on the prairie. They preferred to build in the timber and to clear the land of trees and shrubs. Some of the "cabins" were later supplanted by "hewed" log-houses, and these, in turn by brick, stone, and frame houses, such as one sees at present.

These newcomers brought from their former homes peach, apple, cherry, and sometimes pear seeds to plant, in order to have in a few years fruit of their own. It was in this manner that nearly all the early orchards in Missouri were started. Life was exceedingly primitive, and those settlers endured many hardships unknown to the young people of the present; yet they were a fairly well contented and happy people.

In the course of time, as the population increased, a general movement took place in fencing land for cultivation. On the timbered land the trees had to be cut down, piled into log-heaps and burned, before it could be plowed with a "shovel plow." By degrees, men found that the prairie sod could be turned under once, when it rotted, and the ground brought into cultivation with much less labor than the "stumpy land," and it produced as good crops. With this experience, men began to make their homes on the prairie land, and haul their rails from the timber to fence their farms. Of course in those sections of the state where all the land was covered with trees, the home-makers had to continue to clear the land and bring it into cultivation.

These processes have continued until the present among the people, in making their own dwellings. In those early days there were only a few groups of settlements, but they multiplied rapidly. A rich soil, noble rivers, heavy forests, and unlimited mineral resources, invited immigrants who wanted homes of their own. As the years rolled by a strong, sturdy foreign element from Europe came into the state. All these people were home-builders. Cities, towns and villages sprang up, so that now there are at least 750,000 homes in which people live in Missouri, and a larger per cent. of the population live in their own homes, and have them paid for, than in any other state in the Union. It, however, is a long step from the log cabin to the magnificent city residence with all modern conveniences.

However, as great a difference is marked between the little log school house and the Soldan High School in St. Louis, or the Westport High School in Kansas City, as one sees in the dwellings. These simply register the standard of progress made within the memory of people

still living. All this progress could not have come about without producing great changes in all matters of a social, industrial and moral character. Man succeeds best when he lives under laws which secure personal and property rights and guarantee free religious worship. Those who came here in the early history of the state had the same essential wants as have the people of the present, but they lived simply and had not so many artificial wants to supply.

SUGGESTIVE QUESTIONS

1. Mention some of the local objects in Missouri that bear Indian names; three that are of French origin; two of German.

2. What states are included in the Louisiana Purchase? What was the provision in the treaty in reference to the religious opinions of the French inhabitants residing in the territory ceded by France to the United States.

3. By what classes of people were St. Louis, St. Charles, and Ste. Genevieve settled?

4. Bound Missouri. Describe the Platte Purchase. What per cent. of the people of Missouri live under some form of municipal government?

5. Give three reasons for the necessity of government. By what authority is a national census taken? How often?

6. Tell how disputes about "land claims" occurred?

7. What do you understand by home-building and home-makers? What things would guide one in selecting a new home? Give at least four reasons. How did the early settlers bring their farms into cultivation? What is the difference between a "shovel plow" and a "gang plow."

8. What do you understand by living under law? What do you understand by desire, want, wages, wealth, food, clothing, shelter?

CHAPTER II

HOW SETTLEMENTS GROW INTO A STATE

Early Pioneer Life People now can move from one state to another in a few hours, or at most in a few days. Before the era of railroad communication, travel was both slow and tedious, and was performed in rugged regions on foot, or with a pack-horse, and later roads were blazed out by marking trees, and horses and teams were used. Along the navigable rivers, canoes and flat-boats were used whenever practicable. When the gold excitement broke out in California just after the close of the Mexican war, it took the gold seekers six months to go from Illinois or Missouri to the Pacific Coast, and now the journey is pleasantly made in three days and nights, which simply means that the mode of travel is sixty times more rapid now than it was then. It was by those slow and tedious methods of travel that all the early settlers came to Missouri. From the settlements, at first far apart, the people spread over the entire state in search of homes, or good soil upon which to make their homes, and this influx of people still continues. Yet there are those who moved elsewhere from this state in the hope of bettering themselves financially. As the population increased new counties were organized, county seats were located for the purpose of having a place to transact the county business, county buildings were erected, school houses and churches were built, and the

A SCHOOL GARDEN, KIRKSVILLE, MISSOURI

people provided themselves with more useful and comfortable things than was possible under former conditions.

While the farmers and hunters constituted the most numerous class of citizens, millers, blacksmiths, gunsmiths, doctors, and preachers were also in demand. The old horse-mill and the water-mill were both necessary for grinding wheat and corn. The Americans have always been great bread and meat eaters. The blacksmith was a most useful member of each neighborhood, or perhaps of several neighborhoods, and he often shod horses, "upset axes," made wagons and plows, and some of them could make a good rifle. His trade embraced about all the iron and steel work the farmers wanted. Sometimes the blacksmith's shop was at the mill, and perhaps a little grocery store was kept there to.

The country doctor traveled for miles and miles to visit and minister to the sick. In most new counties in the fall season fevers were prevalent, and not infrequently the doctor would ride across the country from twenty to thirty miles to see his patients. Little by little these things have changed, and they can never be repeated again, owing to our rapid methods of travel and communication by mail, telegraph, telephone, public highways, railroad and trolley line facilities. But it is well for us to keep pictures in our minds of how our forefathers made it possible for us to enjoy all the comforts that we now have.

With the little village as a beginning, it grew into a town, and perhaps into a city, representing all the occupations that we now see men and women engaged in. Every trade and occupation has its history which is well worth learning.

The Counties and the State. The counties of the state were at first few and large. When a few settlements had

been formed, and the people thought they had sufficient population to organize a county, they would manage to get a bill through the legislature authorizing the formation of a new county. Therefore each county of the state has its own history which is a distinct chapter of the state history, as is the history of the different families in each county. After a county was organized, it was subdivided into municipal townships for voting and other purposes.

A state is a creation of our National Government, but because of this fact, the state does not cease to grow and expand, not in area, but in all the different pursuits that men and women follow. By the Constitution of the United States, each state is entitled to one representative and to two United States senators. As each state increases in population, its representatives increase according to a ratio based on the census returns. Hence, it is that a state is divided into congressional districts which are fixed every ten years.

The following table shows the growth of the state for a period of a hundred and ten years:

1800	10,320
1810	66,000
1850	682,000
1860	1,182,000
1870	1,719,000
1880	2,168,380
1890	2,619,184
1900	3,106,665
1910	3,293,335

These figures indicate the growth in population of the state, but they fail to show how many people moved from the state each decade to other states and territories. The wealth of the state has correspondingly increased in every respect.

The chief occupations in which the people are engaged are agriculture, manufactures, commerce, mining, and many other important and profitable industries. Primarily the settlers have created every institution that we have in Missouri—the homes, the churches, the schools, civil society, the counties, the townships, the villages, towns, cities, courts, highways, bridges, and all the different forms of state and municipal government under which we live. The neighborhoods, the townships, the counties are like the state in the miniature.

Citizens Depend on Each Other. The state is the community at large, embracing many and diverse interests. It is quite probable that should all the wheels of industry and commerce cease to turn for one year, and the earth refuse to yield her increase, that the people of Missouri, unless they could secure assistance from the outside world, would perish. This simply shows how dependent we are on each other, and that a large part of mankind must be engaged in preparing food and clothing for all, and that another large class is engaged in bringing the raw products to the manufacturers, and these in turn prepare them for the consumers, many of whom must always buy in small quantities. Out of these and other relations spring rights and duties which we commonly speak of as the intangible, practical relations between man and man, and the government under which he lives. The rights of men are those of liberty, personal safety, and security in the possession of property. Law should be justice and good sense put into writing and then printed, and the citizen who has committed no offense should be permitted to enjoy the fruits of his own labor and do his duty to the community in which he lives, and perform cheerfully all his duties both public and private. This is an abstract statement of some great truths. But

not everyone is inclined or even willing to live up to the high principles just enunciated. There have always been persons who wanted more than rightfully belonged to them, and laws have been enacted to restrain them. From territorial days, lawsuits have been common not only in Missouri, but in all the other states of the Union. A collection of all the general and special laws that have been passed in Missouri, city charters and ordinances, the supreme and appellate court reports, would form a large library, and yet these are silent witnesses as well as records that prove incontestably that some people will not do the right thing, unless they are forced to do so by the authority of the state.

Changes in the State. The general surface of the state has changed but little in historic times. The rivers, hills, and valleys remain the same, except as man has slightly modified them. Many of the streams have partially filled up, the hills have worn down, the forests cleared away, and the open prairie has been fenced and placed in cultivation, and farm houses dot woodland and prairie, and cities, towns and villages number into the thousands. School houses of numerous grades are seen everywhere, and a million of children attend these different kinds of schools each year. Great crops of grain, grasses, vegetables and fruits are raised every twelve months. An average Missouri corn crop would make 6,250,000 wagon loads of corn, averaging 40 bushels to the load. Could this pile of corn be loaded into wagons, allowing each wagon and team 40 feet, and each team started on a straight road as soon as it was loaded, it would make a line of wagons more than 47,000 miles in length. At the equator such a line would lack 3,000 miles of encircling the earth twice. But astounding as this fact appears, the other farm, truck-garden and orchard products would

doubtless fill as many more wagons, not to mention the manufactured commodities, which amount in the aggregate to several hundred million dollars annually. Traversing the state in every direction are great systems of railroads reaching every section, and affording a ready market for all the commodities the producers or manufacturers have for sale.

A Further Example. Were all the miles of railroad in the state built around its entire boundary, they would encircle the state six times. Therefore, the relations that exist among the people that live in the country and those that live in the cities, towns and villages are intimate and dependent. Social, business, and kindred ties bind the citizens closely together. The city and town people depend upon the country people, and likewise the country people are as dependent on the other class. They are forced to unite and work for common interests. The aim in many localities is to bring as many of the advantages of town and city life to the rural population, as there is also a tendency to bring much of the best of the country life, with its freedom and independence, into urban life. The rural delivery of the mails, the rural telephone systems, the trolley lines, the wind mills for supplying the houses with water for cooking, drinking and bathing purposes, have accomplished wonders in rendering country life more pleasurable and freer from drudgery. As marvelous as the development of the state has been in the past, no one can forecast the future. This state can well sustain a population of 40,000,000 contented, industrious and happy people, and then it would have only about 550 to each square mile, being much less densely populated than Belgium is at present. Let us stop here and think about this.

SUGGESTIVE QUESTIONS

1. Tell what you understand by the growth of a human being. How does the growth of a neighborhood agree with that of a county?

2. Give some account of how people who lived on the Atlantic Slope a hundred years ago, could move to Missouri.

3. How did the early country doctor's practice differ from that of the city doctor's practice to-day? In the early history of Missouri, when and how were religious services usually conducted?

4. Who surveyed the land in Missouri?

5. If you were to go into a lawyer's office, what kind of books do you think you would see there? Give a reason for your answer.

6. In what respects has the state changed since being permanently inhabited by white men?

7. What reasons can you assign for the disappearance of the wild game?

8. What are the chief industries in your neighborhood in which the people are engaged?

9. What do you think a government should do to protect the health of its people?

10. Should the person or corporation be responsible for every accident that happens to an employee during his term of service, or only when he is at work for the firm? Why?

CHAPTER III

LOCAL GOVERNMENT

Need of Coöperation. Government of the first and simplest kind begins in the home where the father is the head of the household, ably seconded by his wife. Did the family live in isolation, as Robinson Crusoe is described as living for years on a lonely island, then the law of the household would be adequate for all emergencies, but it has been found necessary whenever people live together as a community, that laws of some kind for their control must be enacted and enforced. Men, too, must act together in order to achieve any large results of whatsoever kind. Matters of public concern in civilized communities occupy much of their attention. Under our theory of governmental control, each one is presumed to conduct his own private affairs as he wishes, provided he does not infringe upon the rights of others, or do some act against public policy.

Forms of Government. A citizen of Missouri, if he lives in the country, is living under the following local forms of government: that of the school district, the township, the county, the government of the state, and also under the most general form of government in this country—that of the United States. In addition to these, he may be a member of some church organization, or of some benevolent or social organization. Upon the other hand, should he reside in a city, or a town, he is still under another form, known as municipal government.

How Administered. All kinds of political government are administered by officers elected or appointed to fill

certain public positions, and to perform certain specific duties. The duties of officers are prescribed by law, and they are expected to act strictly within the scope of their authority.

The county is the largest of the strictly local divisions, and the county officers have jurisdiction throughout their respective counties. The official place of county business is usually at the county seat. The county occupies a position midway, as it were, between the townships which compose it and the state government at Jefferson City. The county collectors collect taxes for the state and pay the same to the state treasurer. At the county seat all the records of the county are kept. The county officers usually are the county court, composed of three county judges, a county clerk, probate judge, circuit clerk, and recorder of deeds, county surveyor, public administrator, sheriff, prosecuting attorney, assessor, coroner, treasurer, and county superintendent of public schools. These officers are elected at a general election held in each county. The townships elect the justices of peace and constables.

The duties of the county officials are all prescribed by statute law. Should the county judges refuse to make the tax levy for the county, no taxes could be collected. The judges manage all the county business, and have a general supervision over all the other county officers. The sheriff is the chief executive officer of the county.

Whenever a reader of this book goes to the county seat, it will be time well spent to go into the court house and look around. Read the signs on the doors, and learn something of the duties that each officer performs. Make a visit when the county court is in session. Walk into the room quietly, take off your hat, and watch what is going on. Should the circuit court be in session, go in and observe the procedure there.

The reader ought to keep in mind that all the legal transactions in which the county is interested, must be recorded; all instruments, such as deeds, mortgages, court documents, marriage records, licenses issued by the county court, bonds given by county officials for the faithful performance of their duties, must be made a matter of record. The county judges make the order for holding general or special elections, appoint judges and clerks, and name the voting places and direct the clerk to prepare the poll-books. The Constitution of the State of Missouri prescribes the qualifications of voters as to age, residence, and citizenship.

Besides this brief enumeration of the duties of officers in local matters, there are corresponding duties devolving on the citizens. They are expected to be industrious, prompt in the discharge of their duties and obligations to individuals, to the township, county, state and nation.

Civilization is Complex. All the people have to live, and all ought to be able to make a living. The farmers, gardeners, fruit growers, and such as make their living by cultivating the soil, or stock-raising and other occupations, come at first hand in direct contact with nature, and literally they, as well as those who work in mines, obtain their living from original and primary sources. Those who do not thus come in contact with the natural products of the earth, whether vegetable, animal, or mineral, obtain their living from men. Without tracing these relations further, it is evident that in buying, selling, and the numerous dealings that men have with one another, very many of these transactions must be regulated by law. And this is actually the case. Business and other interests are so interlaced and these ramifications are so numerous, that in order to protect the citizens in their legitimate duties

as well as in their health and property, regulation by law is a necessary adjunct under our modern civilization.

The people living in the large cities of the state provide for many officials that are not needed in the county districts, or if needed, their duties are partially performed by other officials when emergencies arise. The cities have a police department, fire department, a board of health, food inspector, an inspector of buildings, the commissioner of streets and alleys, an inspector of weights and measures, a city engineer who establishes and locates, under the direction of the city council, the sewer system, the grades of streets and alleys, and performs such other duties as may be directed.

One point will be sufficient to illustrate, in part, the great difference between country life and city life. If a person wants to build a house in a city he must procure a permit from the Inspector of Buildings, and within certain limits in the city, the buildings must conform to prescribed conditions, while in the country the farmer builds his house or barn when and how he chooses, so he builds on his own land.

SUGGESTIVE QUESTIONS

1. What is meant by Local Government?

2. What do you understand by "children's running loose"? Name all the county officers in your county, and tell in single sentences some function each performs. Are there any state officers in your county? Name the offices they fill.

3. Who is the governor of your state? The mayor of your county seat?

4. What is the officer called whose duty it is to prevent stock from running at large?

5. What advantages do country boys and girls have over city boys and girls, and what advantages do city children have over country children? Which are the hardier and better workers? Why?

CHAPTER IV

THE SCHOOLS OF MISSOURI

A Wonderful Record. Missouri has always fostered education, though in the beginning the first schools were those taught by priests and itinerant pedagogues who had wandered into the new territory. From this crude beginning a great school system has grown up, till now there are 10,082 school districts in the state, more than a million of children of school age; upwards of thirty thousand school directors, four hundred and thirty public high schools, with almost forty thousand high school pupils enrolled in them. In the elementary schools the number of children attending is about four-fifths of a million, and the annual expenditure $14,000,000, which is increasing every year. The total school fund is now nearly $15,000,000, and it is being added to from various sources each year. With the exception of Minnesota, Missouri has the largest available school fund of any state in the Union.

The schools of the state are spoken of as a system embracing the elementary schools, the high schools, the state normal schools, the state university, including the school of mines. There are also schools for the blind, deaf and dumb, industrial reform schools for boys and girls, and a school for the feeble-minded.

Elementary Schools. The elementary schools are divided into two classes, the country schools, and the city, town, and village schools. The country school has three directors, the city and town schools usually six, accord-

ing to their plan of organization. The work in the elementary rural schools is so planned, in prepared courses of study by the State Superintendent, that it is practically uniform in all the counties. There are wide differences in the graded schools, particularly in the high school courses which rest with the boards of education. As a general thing, the cities and larger towns have established and maintained good high school courses of study which fit their graduates for admission to the freshman classes in the colleges of the state, and for the state university. Some of the smaller towns and villages have usually only a two- or three-year high school course. But many of the high schools of the state offer several different courses of study to the pupils, each of which is designed to prepare for active life or for further work in higher institutions of learning.

The University. The State University was founded three-fourths of a century ago, eighteen years after the state had been admitted into the Union. It is at the head of the educational system of the state, and is located in Columbia, the county seat of Boone county. The institution itself is a large number of buildings, erected on the University grounds, in which buildings various educational activities are carried on in connection with academic, professional, and agricultural instruction.

Normal Schools. Missouri has provided well for the training of her young men and young women for teaching in her public schools, by establishing a system of state normal schools, all offering substantial courses of study with professional training. The first for white teachers was established in 1871, at Kirksville, and the second at Warrensburg. Normal schools were established later at Cape Girardeau, Springfield and Maryville. Lincoln In-

stitute came into existence in 1866 as a private institution, but was turned over to the state in 1870.

Other Institutions. The School of Mines and Metallurgy, a department of the State University, is located at Rolla, Phelps county, and was opened for the admission of pupils in 1871.

Missouri takes good care of her defective classes. There are four hospitals for the insane, the first at Fulton, the second at St. Joseph, the third at Nevada, and the fourth at Farmington.

The School for the Blind is located in St. Louis; for the Deaf in Fulton; the Reform School for Boys at Boonville, and the Reform School for Girls at Chillicothe. The feeble-minded are cared for at Marshall. The two reform schools are taking on the phases of industrial education, rather than of penal institutions.

There are two Soldiers' Homes in the state, the Federal Soldiers' Home at St. James, and the Confederate Soldiers' Home at Higginsville. Both are supported by the state of Missouri.

Each state institution is controlled by a board of managers, nominated by the governor and confirmed by a majority vote of the state senate.

Private Schools. As early as 1774, B. Tribeau was teaching school in St. Louis, and he taught there for forty years. He was probably the first teacher in the entire territory included now in the state. The early settlers from Kentucky and Virginia, as well as from New England, brought with them the idea of the academy, as also of the pay subscription school. These academies usually had a primary department and an academic department. Out of these have grown the colleges and many other institutions of learning in this state.

Before the establishment of the present school system,

which really dates from 1867, nearly every town of any size boasted of an academy or seminary of learning, and it was at these pay schools that a large number of the boys and girls obtained their education beyond the merest rudiments. More than a hundred of these little schools had been chartered in the state prior to the adoption of the present state constitution. Perhaps as great a number worked without charters.

"Pay" Schools. The subscription school came along with the academy, but not of it. The people in a neighborhood would talk about the education of their children, and then decide to build a school house at some accessible place that would be convenient for all. They would furnish the material, put up the house, build the chimney, make the benches, and then find a teacher who would agree to teach each pupil at so much a month. A contract was usually drawn up and signed by patrons and teacher. These voluntary school houses were built in the woods near a spring or good well, having plenty of timber nearby for fuel in cold weather. As a general rule, a man taught the school during the winter, and a woman in the spring or summer. These school houses were often used for religious services, voting places and other public gatherings. In these schools the branches usually studied were reading, spelling, writing, ciphering, geography, grammar, and reading of United States history.

Occasionally, if the school was not crowded, a few pupils would study algebra and geometry, or a Latin grammar and reader. All the academies offered Latin and mathematics and physics and chemistry. In the older and wealthier sections of the state, painting, embroidery and vocal and instrumental music were offered as incidental studies for girls and young women.

The Colleges. There are still many private schools in the state. The highest organization of these is the College Union, which formulated a plan of work among themselves, with fixed standards by which they could measure their work. The object was to raise the standard of education in the state, unify the work and become better acquainted with one another. Space forbids any extended notice of this movement. Enough to say, that in connection with the higher state institutions of learning, the Union includes the first-class colleges of the state.

There is as great a work for the colleges of Missouri to do in the future as they have done in the past. Many parents prefer to send their sons and daughters to college where they will not be lost in the multitude, and be handed over to callow tutors as instructors. This sentiment is growing rather than diminishing in the public mind. There is enough for all the public and private schools to do, and yet a large majority of the people of the state will only be partially educated.

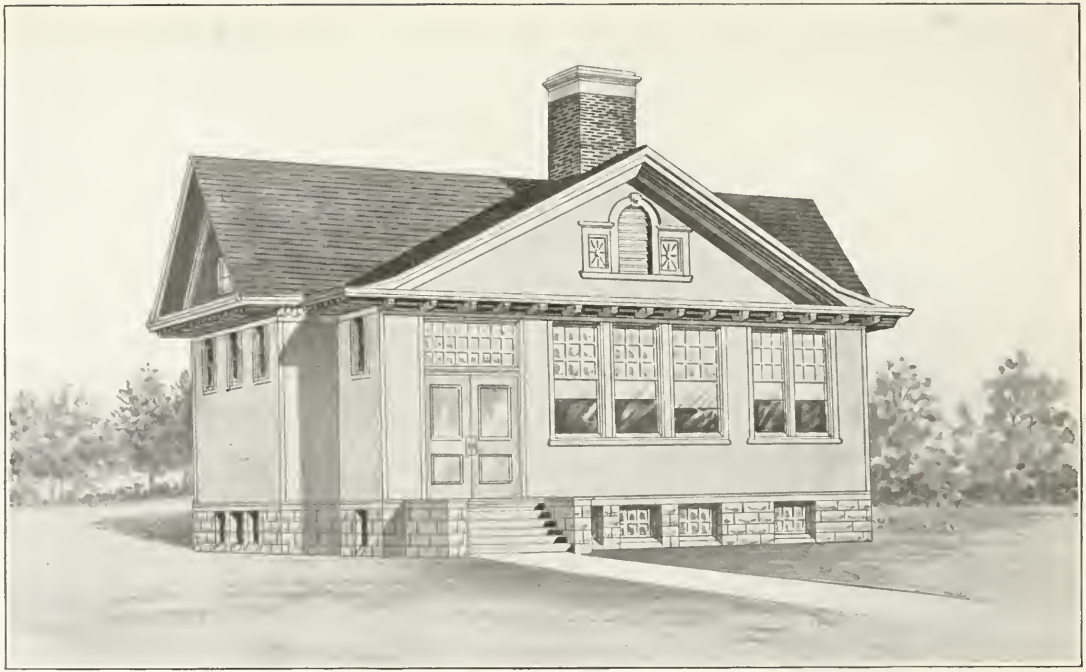
SUGGESTIVE QUESTIONS

1. Tell how a public elementary school house is built, and how it is paid for.
2. What studies must a pupil complete to be admitted to high school?
3. How old must a child be to be enrolled in a public school?
4. What do you understand by a Teacher's Certificate? By whom is it issued?
5. How is a lawyer licensed to practice? A physician? Is a County Judge examined on county business before or after his election? Why?
6. Do you know of any private school in your county? Where?
7. Tell where the following colleges are located: William Jewell, Central, Tarkio, Westminster, Park College, Drury, Missouri Valley, Washington University, Central Wesleyan College, St. Louis University.

CHAPTER V

PUBLIC ROADS

Paths and Roads. The Indians and the buffaloes were, before the white man, the first road makers in Missouri. The Indians had made trails from one part of the country to another, and it was along those paths that they traveled. They remained intact till the white men settled the land and put it into cultivation, when many of the Indian trails were obliterated. The buffaloes were migratory animals, and they traveled frequently along paths, and thus cut narrow roads in the surface of the soil. Some of their paths may still be seen in the newer sections of the country, though these road-makers are almost extinct. The early explorers, trappers and hunters were often guided by these original engineers. The early settlers in a new country have to make their own paths and roads. Often they went into new territory that had not been surveyed. About their homes they had made roads from the house to the field, or to other places more distant. They generally sought out the way that offered the least resistance. When the public land was surveyed and the settlers had purchased some of it, roads in due time were laid out along the section or half-mile lines. The roads at first in a new county are few in number, extending across it. Each family had some way of getting to a county road, which usually connected county seat with county seat. Wherever the land was not fenced, these county roads went in the shortest and best directions from point to point. Along the ridges and divides



A MODEL RURAL SCHOOL HOUSE

in Missouri, the roads were beaten into well worn tracks. With the building of roads, came the bridging of streams and the establishment of ferries at river crossings. All these things had to be worked out by the settlers of each new county. This work has gone steadily forward, till at this time there is a general movement throughout the United States for building good roads, so that the people at any season of the year can haul their produce to market, or travel with ease, safety and rapidity from one locality to another. Only a few citizens ride in public conveyances compared with those who walk and use teams on the public highways. The farmers, fruit-growers, and gardeners must haul their crops to market, and it is frequently said that the civilization of a state or locality is measured by the number and condition of its highways. This standard of measurement has an element of truth in it. A great deal has to be done in this country before road-beds are constructed that will stand the test of time, as the great highways built by the Romans have stood such test for two thousand years.

The Ethics of Good Roads.—To go from one place to another, good roads and good streets are needed. Along all country roads shade trees and fruit trees ought to be planted, and stone posts or pillars should be erected at convenient public places, recounting some historical or other notable incident of that vicinity, or containing some motto that would impress itself on the minds of the young. There should be seats at convenient distances for travelers to sit on and rest when tired. Beautiful flower plots here and there would add a charm to the landscape. Not only should our roads be made beautiful, but our homes and school houses and grounds—all should be made and kept attractive. Children in the country like to walk along shady roads, look at beautiful and strange flowers, listen

to the songs of the birds and watch the floating clouds, and gaze now and then into the far off sky. They like a variety of shade trees, too. They have their preferences among the trees, the flowers and the fruits.

What has been briefly suggested means a great deal, but it is not an impossible undertaking. It means better roads and better road laws. It implies beauty and cleanliness, which are instrumental in preventing moral, mental and physical contamination. It means clean, pleasant and beautiful playgrounds for the children in the country, and in the town, and in the city. Furthermore, it means that the children shall have room where they may play their outdoor games, and that each may have a small plot of ground upon which to plant seeds and shrubs and trees, and watch them grow.

No clean animal likes to walk in the mud or live in the mud, much less a child.

School House a Social Center. Each country school house should be located where two roads intersect, thus giving access to it from the four cardinal points of the compass. The site should contain from five to ten acres of beautiful ground, large enough for play grounds, shade trees, flower beds, and experiment gardens to test farming, fruit and gardening processes. It may be that in due time, shops will be erected and connected with each school, in which our boys and girls will spend a portion of each day in work at handicrafts.

The school house is a social center in which all the people have a common interest. At the school house lectures, social gatherings, and public questions, barring partisan, political, and religious matters, can be discussed. Through the instrumentality of good roads, all community interests are more closely knit together and every public and private interest is better fostered.

Improvements in road making ought to keep pace with other methods of communication, including the construction of trolley lines, telephone lines, telegraph lines, and the rural delivery of mail matter. The farmer and his wife and children want to know what the world is doing from day to day as much as does the man of business in the town or city.

SUGGESTIVE QUESTIONS

1. How are the roads made and kept in repair where you live? For what part of the year are they impassable on account of mud and high water?

2. How much did it cost to build the best bridge in your county, excluding railroad bridges? How far does the most distant tax payer in the county in which you live, have to travel to reach the county seat?

3. Did you ever read the Road Law of your state? Who made that law?

4. Do you believe that lights should be kept burning along public roads in the country? What objection do you see to such a law? What advantages?

5. If you were to drive a team along a public highway and you chanced to meet an automobile, which should have the right of way? Why? Who should cut the weeds along a public highway?

6. How would you prevent, or seek to prevent, the washing of deep gullies on either side of a road?

7. How can streets and back alleys be kept clean? If children make a "snow man" on the school grounds, and a horse becomes frightened at it and runs away, and damages the rider, driver, or vehicle, who is responsible? Give two reasons.

8. Draw a plat of a section of land, divide it into quarter sections, and on the northwest forty locate a school site, containing ten acres in the northeast corner of this forty. If the site be square, how many feet around it?

9. Can you describe legally the tract of land upon which you live?

10. In what section, township, and range is the school house located at which you attend school?

11. What is the difference between a township and a section line?

12. Draw a diagram dividing a township into sections, and locate on the diagram the 6th, 13th, and 31st sections.

13. If you should walk once around each section of land in a township, how many miles would you have walked, provided each section is a *mile square?*

CHAPTER VI

PURE FOOD

Keys to Good Health. There are three conditions to be satisfied, and without which no person can enjoy good health—pure food, uncontaminated air, and good drinking water. There are laws to punish persons who sell, or offer to sell, spoilt food of any kind. In the country nearly all the drinking water is obtained from wells, cisterns and springs, and in the villages and smaller towns from wells and springs. One of the greatest problems that our large cities has to deal with is that of supplying the people with pure water for drinking and culinary purposes. The water that rises in our wells may be so contaminated with deleterious matter that its use is highly injurious to health. The wells at school houses and in other public places should be inspected frequently by some one capable of making an analysis of the water to determine whether it is fit to drink. Usually water that stands in a well for a time and is not agitated ought not to be used. The school house well is frequently a breeder of some of the most dangerous fevers. If it is a cistern, it should be thoroughly cleaned each fall before school opens, and all sediment taken out of the bottom, and no water should run into it until the roof of the school house has been washed clean. No surface water should flow into it. If it be a living well, the water should flow into it down deep in the ground. If it is filled with water from near the surface, the chances are that it is mixed with impurities that are deleterious to health. Before

the country was thickly settled, the children often drank at the spring and from running streams and streamlets, without serious consequences following. Now there is so much refuse thrown on the ground and into the streams that deadly germs literally lurk in the water in many localities. The water in many of the lakes and rivers is full of impurities.

Should there be a suspicion that the drinking water is not pure, as a preventive measure, it ought to be boiled. If the drinking water at school is not good, the children ought to take boiled water from home each day.

Should the school authorities be indifferent, the children can express their opinions to their parents as to the unsanitary condition of the water in the well. It is a public matter that appeals to all parents and good citizens. Soap and water are great cleansers and purifiers. The body needs to be thoroughly bathed every day or two, and it should always be bathed in clean, pure water.

A most delightful exercise is that of swimming, and there should be provided in every community a swimming pool in which all boys and girls should have the opportunity to learn to swim. Swimming exercises all the muscles of the body.

There is just as much need for pure water in the country as in the city, and it is more vital, and it is oftener overlooked; but in all large cities the Board of Health keeps a watchful eye on the quality and quantity of drinking water.

Pure-Food Law. The state and municipal governments have a general supervision of the health of the entire people. Impure food and poisoned water may produce epidemics that carry off hundreds and thousands annually. To reduce these evils to a minimum by a systematic method of protection, public officials are appointed to

oversee and supervise all matters relating to public health. There are inspectors of food, of public and private buildings, of public and private health, and of all sanitary matters generally. Garbage must be disposed of, premises kept clean, sidewalks and streets kept in good repair, drains and sewers kept open, nuisances abated. In short, the good citizen promptly removes everything from about his premises, or office, or place of business, that invites disease, or would contribute to its spread.

Of Vital Importance. Our country needs strong, healthy boys and girls, because they make men and women able to do their share of the world's work. Pale, sickly children can neither study nor work. They lack the strength. They either do not have plain, nourishing food, or they sleep and live in rooms that are not properly ventilated. There are not many elegant private residences that are properly ventilated, while provision for keeping them well heated is ample and adequate. Public buildings, such as court houses, jails, penitentiaries, churches, offices, theaters and hotels are, as a rule, poorly ventilated. The modern school houses throughout the country are the only public buildings that are ventilated. Churches, court-rooms, doctors' offices and prisons are the poorest ventilated, as a class, in this country. Pure air must be breathed to keep the blood in a healthy condition.

Children, to be strong, robust and vigorous, must breathe pure air during the day, and at night in their bed rooms, and eat plain, nourishing food. Just to raise one window will not cause a current of air to flow through a room, unless there be another opening in the room. If there be two windows, one should be lowered from the top and the other raised from the bottom to allow a cross-current.

Prevention Is Better than Cure. The entire theory of sanitary regulation is based on the prevention of disease and the prolongation of human life. In every movement of this nature the object is to preserve the life and the health of all the people, by looking after the cleanliness of each individual in the family and of each family in the community. The custodians of public health should do their work to the utmost of their ability. The public conscience ought to be highly sensitive on all matters pertaining to the health, happiness and social betterment of the city or community in which people live. Poor performance of public service should never go unchallenged.

SUGGESTIVE QUESTIONS

1. What marketable products are produced by the farmers in or near the community where you live? What kinds of grain are used in this country as bread-stuff? Tell in a short essay, what you understand by *pure food.* Can you name any varieties of wheat raised in the state in which you live?

2. Should you go to a market, how would you determine whether the articles which you wanted to buy, were in proper condition for household use? What direction can you give for ventiliating an ordinary country school house? What element, or elements, renders air impure? If all material things be mineral, animal or vegetable, under which of these would you classify air? Water? Give three reasons for each answer.

3. Give four reasons why all persons ought to eat wholesome food, breathe pure air, and drink potable water.

CHAPTER VII

ELECTIONS AND OFFICIALS

Duties of a Citizen. A good citizen is one who performs all his duties both public and private in a highly acceptable manner. One of his public duties is to vote at elections held in the township, ward or precinct in which he lives. Under the present constitution of Missouri every male citizen, (except those not naturalized, or having declared their intention to become citizens according to the laws of the United States), who is over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections:

First. He shall have resided in the state one year immediately preceding the election at which he offers to vote.

Second. He shall have resided in the county, city, or town where he shall offer to vote at least sixty days immediately preceding the election.

By reason of crime or other disabilities some persons are deprived of the privilege of voting.

Public Officials. These persons are divided into two classes, **Elective** and **Appointive.** The American theory of government is that of a representative democracy, which is only another way of saying that a majority of the voters who vote at an election choose by ballot the officers who shall serve the community, county or state for a specified period. Persons thus elected are called public officials. There are other persons appointed to fill public positions and these are **appointive** officials. The original idea in the minds of the people was that public officials are the servants of the people, and that one per-

son could perform public duties as well as another. A new element is now at work overturning this view of the subject, in that public officials who prove skillful and efficient, are better qualified to transact public business than a bungler. The people are now more and more asking themselves whether aspirants for political preferment have sufficient knowledge to perform the duties pertaining to the positions they seek to fill. Public office is thus declared to be a public trust.

A Broad View Necessary. In a broad way, the individual voter as a citizen must take a wider view of the subject of government than that lying within the range of the community life in which he lives. There are purely local matters pertaining to the welfare of the township, the city, town or village in which he lives that require unremitting attention. Rising one step higher is the governmental business of the county, which is the state unit. Everyone ought to be intelligent on the affairs of the county of which he is a citizen. The farming classes in Missouri are governed chiefly by the county officials. These come between the people and the state officials.

Government Likened to a Tree. The state government is intermediate between the counties composing the state and the national government. We live under all these groups of governmental machinery, seldom stopping long enough to reflect upon them. Just as the union of the townships forms the county, the union of the counties forms the state; so the indissoluble union of the states forms the national or federal government. Wherever the national government in ordinary matters touches the people once, the state prescribes for them many times, and the municipalities literally determine their downsittings and uprisings. The state outlines the broad and general policies for its citizens. These in general are

designed to protect life, property, health, family relations, the descent of property, control business matters, partnerships, the prevention and punishment of crimes, to secure, in connection with the United States, religious toleration, the organization of state banks, and many other public matters too numerous to be cited. The local governments, that is, the county and municipal governments, derive all their authority from the state government. If the state government be considered as the trunk, the local governments are branches of that trunk. St. Louis, Kansas City, St. Joseph, and all the other cities, towns and villages in the state, are organized and operated under authority granted to them by acts of the legislature, as outlined in the state constitution.

The People Govern. Notwithstanding all that has been said, the constitution of the state was framed by a convention of citizens who had been elected for that purpose at a special election, and they assembled at the state capital without taking an oath to obey the constitution of the state, but to support the constitution of the United States. They organized and formed into committees and went to work on a new constitution. When it was completed, it was submitted to the voters, and a majority voted to adopt it: hence all power resides in the people. The adoption of a state constitution is the most important legal question that can be passed upon by the electorate of a state. Not only do the voters elect their public officials, but in local matters they vote money for public improvements. The county judges may levy the state and county taxes, but if a public building is to be erected, or any kind of public improvement undertaken outside of ordinary repairs, the proposition must be submitted first to the qualified voters for their endorsement. This

is upon the theory that the people will pay for what they think they need.

Expenses of Government. The different kinds of government must be carried on by officials, and these in nearly all cases are paid salaries. The annual expenses necessary to transact the business of our nation is far in excess of the total expenditures of all the state governments. Some have estimated it as being five or six times as great. The total municipal expense each year is also a vast sum, so large, indeed, that one can not think it in concrete form. These vast sums of money, whether for local, state or national purposes, must be raised by some form of taxation, either by a direct levy or indirectly. The local and state taxes are direct taxes levied on the property of the people owning the property in the state. There are other taxes, such as licenses and fees which persons engaged in certain occupations must pay to the municipality, county, state, or general government.

SUGGESTIVE QUESTIONS

1. What is the rate of taxation levied in the county in which you live, for county and state purposes? If you live in an incorporated city, what is the rate of taxation levied by your city council, and what amount is appropriated to each department?

2. Make a list of the county officials of your county, and state the salary of each.

3. What is the "Blue-Book" of the state of Missouri, and of what does it treat?

4. Can you explain how a city can add to its territory?

5. When a person pays a town, county, or state tax, what should be received, and what does it state? Explain the duties of a Board of Equalization.

6. What per cent. of the people own their homes in the community in which you live?

7. What is the difference between attending a primary and a county convention? What do you understand by a person's running for office, and how does he run? What is the difference between receiving a nomination and being elected?

CHAPTER VIII

AN ABSTRACT OF THE CONSTITUTION OF MISSOURI

PREAMBLE

1. We, the people of Missouri, with profound reverence for the Supreme Ruler of the Universe, and grateful for His goodness, do, for the better government of the State, establish this Constitution.

ARTICLE I. BOUNDARIES

2. This article establishes and defines the boundaries of the state.

ARTICLE II. BILL OF RIGHTS

3. All political power is vested in the people; the state has the sole right to regulate its own affairs, subject to the Constitution of the United States; every man has the right to worship God according to the dictates of his own conscience; no person shall be compelled to support any religious creed; no public money shall be given to aid or support any church; all religious corporations shall be established in this state only for holding church property; the right of suffrage shall be free; the courts open to every person; people shall be secure in their homes; the process against persons guilty of felony shall be by indictment; no person guilty of treason shall work corruption of blood; freedom of speech and press is guaranteed; no imprisonment except for the non-payment of fines and penalties for violation of law; the right to bear arms in defense of home, person and property shall remain inviolate; no one shall carry concealed weapons;

all public officers must attend to their duties; private property can not be taken for public or private use without the owner's consent, and then in the manner prescribed by law; persons accused of crime have the right to appear in person, to have counsel, to demand the nature of the complaint, to meet witnesses face to face, to compel witnesses in defense, to a speedy trial before a jury; no person shall be compelled to testify against himself, to be tried twice for the same offense; excessive bail, fines and punishments shall not be imposed; the writ of habeas corpus shall not be suspended; the military authority shall always be subordinate to the civil power; trial by jury shall remain inviolate; people have a right to assemble and petition for a redress of grievances; no person shall be deprived of life, liberty, or property without due process of law; slavery and involuntary servitude, unless as a punishment for crime, are forever prohibited; other rights not enumerated are retained by the people.

ARTICLE III. THE DISTRIBUTION OF POWERS

4. The powers of the state government are the Legislative, the Executive and the Judicial.

ARTICLE IV. LEGISLATIVE DEPARTMENT

5. This department is composed of the Senate and House of Representatives, together styled "The General Assembly of Missouri."

REPRESENTATION AND APPORTIONMENT

6. State Senators are elected for four years; there are 34 senatorial districts in the state; half the senators are elected every two years; all the representatives are elected every two years; the state is divided into 143 representative districts; no person can be a senator who is under thirty years of age; a representative must have attained

the age of twenty-four; every senator and representative shall take an oath to support the Constitution of the United States, to support the Constitution of Missouri, to perform the duties of his office, to refuse any money or gifts for the performance or non-performance of his official duties, except the compensation allowed by law; the compensation allowed by law is five dollars a day for seventy days and one dollar a day for additional time, if the legislature is in session.

7. Each house perfects its own organization and makes its own rules; is the sole judge of the qualifications of its own members, and imposes its own punishments. A majority of each house constitutes a quorum. The sessions of each house shall be held with open doors, except in secret session. Neither house shall adjourn for more than two days without the consent of the other.

LEGISLATIVE PROCEEDINGS

8. The style of the Laws of the State shall be: "Be it enacted by the General Assembly of Missouri."

Appropriations are made in the following order: Interest on bonded debt, sinking fund, public schools, for the assessment and collection of the state revenue, payment of the civil list, eleemosynary institutions, expenses of the General Assembly and other purposes.

9. The credit of the state can not be lent to any individual or corporation, except in case of calamity; the assembly is prohibited from enacting any local or special law; the assembly has no power to remove the seat of government.

ARTICLE V. EXECUTIVE DEPARTMENT

10. The Executive Department consists of a Governor, Lieutenant-Governor, Secretary of State, State Auditor, State Treasurer, Attorney-General, and Superin-

tendent of Public Schools. All must reside at Jefferson City except the Lieutenant-Governor. The Governor and Lieutenant-Governor must have been citizens of the United States for at least ten years before election, and seven years of Missouri, and at least thirty-five years old; the other officers of the department must be at least twenty-five years old, and have been citizens of the state five years.

11. The Governor shall enforce the laws; is commander in chief of the militia of the state, and may call them out to execute the laws, suppress insurrection and repel invasion; he is empowered to grant reprieves, commutations, pardons, and appoint state and county officers to fill temporary vacancies; communicate his views to the General Assembly; issue proclamations; sign or veto bills passed by the Legislature.

12. The duties of the other members of the Executive Departments are described at length in the State Constitution.

ARTICLE VI. JUDICIAL DEPARTMENT

13. The judicial power of the state, as to matters of law and equity, except otherwise provided, is vested in a Supreme Court, three courts of appeal, circuit courts, court of common pleas, probate courts, municipal courts, county courts, police courts, and justices' courts.

14. The term of office of a judge of the Supreme Court is ten years. He must be thirty years old, and have been five years a citizen of the state. There are seven supreme judges. There are three courts of appeal in the state, each consists of three members, two of whom constitute a quorum; the term of office is twelve years.

15. The state is divided into thirty-six judicial circuits. A circuit judge must be at least thirty years old and a

In teaching and in school equipment does the country boy get a square deal?

THE COUNTRY BOY AND HIS CITY COUSINS

citizen of the United States for five years, a voter in Missouri three years, and a resident of the circuit in which he is elected. The term of office is six years. The names of the other courts indicate the duties each performs. The salaries of judges are fixed by law.

ARTICLE VII. IMPEACHMENTS

16. All members of the executive department, judges of the supreme court, courts of appeal, circuit and criminal courts, shall be liable to impeachment for high crimes and misdemeanors, and for misconduct, habits of drunkenness, and oppression in office. The House of Representatives has the sole power to impeach, and the Senate to try the case.

ARTICLE VIII. SUFFRAGE AND ELECTION

17. This article relates to elections and voters, and the qualifications of voters.

ARTICLE IX. COUNTIES, CITIES, AND TOWNS

18. The counties are legal sub-divisions of the state. This article contains nineteen sections relating to the organization and government of counties, cities and towns.

ARTICLE X. REVENUE AND TAXATION

In twenty-one sections full and explicit directions are set forth in regard to levying, collecting and disbursing the taxes collected in the state for state, county, municipal and school purposes.

ARTICLE XI. EDUCATION

19. There are eleven sections in this article. Section 1 reads as follows: "A general diffusion of knowledge and intelligence being essential to the preservation of the

rights and liberties of the people, the General Assembly shall establish and maintain free public schools for the gratuitous instruction of all persons in this state between the ages of six and twenty years." The other sections provide for carrying out the sentiments expressed in Section 1.

ARTICLE XII. CORPORATIONS.

20. This article deals with corporations in general, including railroads and banks.

ARTICLE XIII. MILITIA

21. All able-bodied men between the ages of eighteen and forty-five are subject to military duty, provided they are citizens of the United States.

ARTICLE XIV. MISCELLANEOUS PROVISIONS

22. Among other things incorporated in this article are: No person shall be prosecuted for an act performed by him during the Civil War, if done by military orders; persons that fight a duel or act as seconds are disqualified to hold office; the legislature shall have no power to authorize lotteries to do business in the state; no officer's salary shall be increased during his term of office.

ARTICLE XV. AMENDING THE CONSTITUTION

23. Twenty different amendments to the constitution have been adopted from 1884 to 1906.

In 1906 an amendment was adopted allowing counties to vote a bonded debt for the purpose of building macadamized roads.

Another important amendment authorizes cities of a certain class to amend their charters.

CHAPTER IX

IMPORTANT MEN, DATES, AND EVENTS

GOVERNORS OF MISSOURI

Territorial Governors

William Henry Harrison, 1804-1805.
James Wilkinson, 1805-1806.
James Brown, acting governor, 1806-1807.
Frederick Bates, acting governor, 1807.
Meriwether Lewis, 1807-1809.
Frederick Bates, acting governor, 1809-1810.
Benjamin Howard, 1810-1812.
Frederick Bates, acting governor, 1812-1813.
William Clark, 1813-1820.

State Governors

Alexander McNair, 1820-1824.

Frederick Bates, 1824-1825. Died August 1, 1825.

Abraham J. Williams, August to December, 1825; as president of the senate became governor.

John Miller, 1826-1828, chosen at special election; 1828-1832.

Daniel Dunklin, 1832-1836. Resigned September 30, 1836.

L. W. Boggs, 1836-1840. Filled unexpired term and then was elected.

Thomas Reynolds, 1840-1844. Died February 9, 1844.

M. M. Marmaduke, February to November, 1844. Filled unexpired term.

John C. Edwards, 1844-1848.

Austin A. King, December, 1848, to January, 1853.

Sterling Price, 1853-1857.

Trusten Polk, 1857. Resigned February 9, 1857.

Hancock Jackson, lieutenant-governor.

Robert M. Stewart, 1857-1861.

Claiborne T. Jackson, 1861. Superseded by Hamilton R. Gamble.

Hamilton R. Gamble, provisional governor, 1861-1864.

Willard P. Hall, 1864-1865; provisional governor after the death of Hamilton R. Gamble.

Thomas C. Fletcher, 1865-1869.

Joseph W. McClurg, 1869-1871.

B. Gratz Brown, 1871-1873.

Silas Woodson, 1873-1875.

Charles Hardin, 1875-1877.

John S. Phelps, 1877-1881.

Thomas T. Crittenden, 1881-1885.

John S. Marmaduke, 1885-1887. Died December, 1887.

A. P. Morehouse, 1888-1889. Lieutenant-governor, became governor.

David R. Francis, 1889-1893.

William J. Stone, 1893-1897.

Lon V. Stephens, 1897-1901.

Alexander M. Dockery, 1901-1905.

Joseph W. Folk, 1905-1909.

Herbert S. Hadley, 1907—.

United States Senators

Missouri has had twenty-four different senators in the Senate of the United States.

Thomas H. Benton, of St. Louis, served 30 years, from 1821 to 1851; Francis M. Cockrell, from Warrensburg, served from 1875 to 1905; George G. Vest served from 1879 to 1903; Lewis F. Linn served from 1833 to 1843.

James S. Green, Frank P. Blair, John B. Henderson, Carl Schurz and William Warner, were all very highly distinguished citizens of the state. The present senators are William J. Stone, elected in 1903, and James A. Reed, elected in 1910.

Dr. Lewis F. Linn was undoubtedly the best beloved United States senator Missouri ever had. James S. Green, in the opinion of many, was the most critical constitutional lawyer; Carl Schurz was one of the most skillful and adroit orators that ever graced the United States Senate; Senator Benton was one of the best informed men of that body. John B. Henderson was one of the ablest lawyers and one of the most studious men ever elected to the senate. Francis M. Cockrell was one of the most conscientious and painstaking men that ever sat in the senate chamber. Missouri since her admission has always been ably represented in the United States senate. No other state can boast of an abler body of men in that most distinguished legislative body in the world.

Some Political and Judicial Information

1. The present constitution of Missouri was adopted by a vote of the people October 30, 1875, and went into operation November 30, 1875. It is the third constitution. It contains fifteen articles and two hundred and eighty-three sections.

2. The state is divided into thirty-four state senatorial districts, six of which are in St. Louis.

3. The state is divided into sixteen congressional districts.

4. The number of judicial circuits in the state is thirty-six.

5. The state legislature meets every two years.

6. The ablest body of men that ever assembled in a state convention to discuss great national issues were those who met in St. Louis in 1861 "to consider the relations between the United States and the state of Missouri." Many persons think that Hon. Uriel Wright's speech, delivered during the first session of this convention, is the most masterful legal argument ever made in this country, and that in cogency of reasoning and breadth of research, it is superior to Webster's reply to Hayne.

Distinguished Missourians

1. In March, 1764, Pierre Laclede Liguest and Colonel Augustus Chouteau laid out the first site of a town on the west bank of the Mississippi, and named it St. Louis.

2. The first English speaking white man that settled in St. Louis was James Mackey, a Scotch surveyor, who came in 1776, and died there in 1821.

3. Hudson E. Bridge manufactured the first stoves in Missouri in 1837.

4. Joseph Robidoux was born in St. Louis in 1774, and, as an Indian trader, pitched his tent on the present site of St. Joseph in 1803.

5. Moses D. Bates built the first house in Hannibal in 1817.

6. Col. Thomas H. Benton was United States senator from Missouri from 1821 to 1851.

7. Gen. U. S. Grant married Julia Dent, a native Missourian.

8. Mrs. Mary S. Logan, wife of Gen. John A. Logan, was born at Petersburg, Boone county, Missouri.

9. Gen. W. T. Sherman lived for many years after the Civil War in St. Louis, and is buried there.

10. Gen. John C. Fremont's wife was Miss Jessie Benton, daughter of Senator Benton.

11. Gen. Sterling Price was the most distinguished and best beloved Confederate general from Missouri. His soldiers called him "Pap Price".

12. Gen. Francis P. Blair, another civilian, was the most noted general on the Union side from Missouri.

13. Lieutenant-Governor Henry C. Brockmeyer was one of the world's greatest thinkers. He lived many years in St. Louis and is buried there.

14. Samuel L. Clemens, better known as "Mark Twain," the great American humorist, was born, November 30, 1835, in Florida, Monroe county, Missouri.

15. Eugene Field, author, poet and journalist, born in St. Louis in 1850.

16. Gen. George C. Bingham, the great artist, lived in Kansas City and died there in 1879. One of his most famous paintings is "The Puzzled Witness."

17. One of the most accurately learned men that ever lived in Missouri, was President Samuel S. Laws.

18. William T. Harris, for seventeen years the United States commissioner of education and the most eminent educator America has yet produced, spent twenty-two years of his life in the St. Louis public schools, and eleven of these years as superintendent.

19. Dr. Joseph Baldwin organized the first Normal School at Kirksville, Missouri, in August, 1867, and in 1871 it became the First State Normal School. He was its president fourteen years, and he did more than any other man in Missouri from 1867 to 1884 to awaken public sentiment in the state in favor of a splendid school system.

20. Dr. George L. Osborne, for twenty-one years, was the successful president of the Second State Normal School at Warrensburg.

21. Edward B. Neeley was chosen superintendent of

the St. Joseph city schools in 1864, and served in that capacity forty-three years, till his death.

Historical Incidents of Missouri

1. Missouri was originally a part of the Louisiana Purchase. The date of the contract of purchase was signed by the contracting parties May 2, 1803. On the 17th day of October following the treaty was ratified by the United States by a vote of twenty-four to seven.

2. The first permanent settlement was made at Ste. Genevieve, located in "Big Common Field", probably about 1730. This village was about three miles below the present site of Ste. Genevieve.

3. The first newspaper published west of the Mississippi river was "The Missouri Gazette", founded in 1808, and is now the St. Louis Republic.

4. New Madrid was destroyed by an earthquake December 16, 1811.

5. Territory of Louisiana was changed by an act of Congress to Territory of Missouri, January 4, 1812.

6. Bank of St. Louis was incorporated in 1812.

7. First brick house was built in St. Louis, 1813, by William C. Carr.

8. In 1816 Missouri was organized as a territory of the highest class.

9. The first steamboat to land at St. Louis was the "General Pike", in 1816.

10. "The Independence" was the first steamboat to ascend the Missouri river. It went as far as Old Franklin, in Howard county. This was in 1819.

11. Missouri was admitted to the Union as a state August 10, 1821.

12. General Lafayette visited St. Louis in 1825.

13. The fourth annual session of the Missouri legislature was the first to assemble at Jefferson City, in 1826.

14. The first steamboat to make the trip from St. Louis to the headwaters of the Missouri was in 1831.

15. The Asiatic cholera killed 400 people in St. Louis during the summer of 1832, and more than 100 died of the same disease in 1833.

16. The state penitentiary was opened at Jefferson City in 1836, with one inmate.

17. In 1836 a railroad was chartered from St. Louis to Iron Mountain.

18. In 1836 the Platte Purchase was concluded, and what are now Atchison, Andrew, Buchanan, Holt, Nodaway and Platte counties became a part of Missouri.

19. November 17, 1837, the state house at Jefferson City burned with all the records in it.

20. Col. Richard Gentry was killed in the Seminole war in Florida, December 1, 1837.

21. The state university was located at Columbia in 1839.

22. There were great floods in the Mississippi and Missouri rivers in 1844.

23. Regiments for the Mexican war were raised in Missouri in 1846, by Colonels A. W. Doniphan and Sterling Price. Colonel Doniphan's regiment made the longest march and endured the greatest hardships of any American regiment ever mustered into service.

24. A fire in St. Louis in 1849 destroyed over 400 buildings. More than 4,000 died of cholera in St. Louis during this summer.

25. The Hannibal & St. Joseph Railroad and the St. Louis & Pacific Railroad under construction in 1853.

26. The railroad bridge on the Gasconade river, between St. Louis and Jefferson City, collapsed with a

heavy excursion train November 1, 1855—more than thirty lives were lost, and upwards of seventy persons injured.

27. Serious troubles over the slavery question began along part of the western border of Missouri and in the Kansas Territory, in 1858.

28. The votes cast for president at the election held in November, 1860, were distributed as follows: Douglas, 58,801; Bell, 58,372; Breckinridge, 31,317, and Lincoln, 17.028.

29. Civil war began in Missouri in May, 1861, and continued four years. During this period all improvements and progress in the state were at a standstill.

30. The "Drake Constitution" for the state of Missouri adopted June, 1865.

31. The Test Oath went into operation under the new constitution at once.

32. Foundation of the Eads bridge across the Missouri was laid in 1869.

33. An act to establish normal schools in Missouri was passed in 1870.

34. The present constitution of Missouri was adopted in 1875.

35. The number of soldiers enlisted in the Union army from Missouri during the Civil War was 109,111 men, and the number that served in the Southern army was at least 50,000 men. As many men were in the two armies as voted at the presidential election in 1860.

36. The Louisiana Purchase Exposition was held in St. Louis, 1904.